

**AGENDA  
PLANNING COMMISSION MEETING  
CITY OF SHOREVIEW**

**DATE:** January 28, 2014  
**TIME:** 7:00 PM  
**PLACE:** SHOREVIEW CITY HALL  
**LOCATION:** 4600 NORTH VICTORIA

**1. CALL TO ORDER  
ROLL CALL  
APPROVAL OF AGENDA**

**2. APPROVAL OF MINUTES**  
*December 03, 2013 & December 10, 2013*  
*Brief Description of Meeting Process – Chair Steve Solomonson*

**3. REPORT ON CITY COUNCIL ACTIONS**  
*Meeting Date: January 6, 2014 & January 21, 2014*

**4. OLD BUSINESS**

**A. VARIANCE – EXTENSION**  
*File No: 2495-13-22*  
*Applicant: Kevin & Sara Ousdigian*  
*Location: 5107 Alameda Street*

**5. NEW BUSINESS**

**A. VARIANCE**  
*File No. 2512-14-02*  
*Applicant: Michael Morse*  
*Location: 1648 Lois Drive*

**B. PUBLIC HEARING - PLANNED UNIT DEVELOPMENT – DEVELOPMENT STAGE /  
COMPREHENSIVE PLAN AMENDMENT**  
*File No.2513-14-03*  
*Applicant: Lugene Olson / Hummingbird Floral & Gifts*  
*Location: 4001 Rice Street*

**C. PUBLIC HEARING – TEXT AMENDMENT – SUBSURFACE SEWAGE TREATMENT  
SYSTEMS**  
*File No.2514-14-04*  
*Applicant: City of Shoreview*  
*Location: City Wide*

**D. WIRELESS TELECOMMUNICATION FACILITY PERMIT**

*File No. 2511-14-01*

*Applicant: Crown Castle*

*Location: 4615 North Victoria Street*

**6. MISCELLANEOUS**

*A. City Council Assignments for February 3, 2014 & February 18, 2014  
Commission Members Schumer and \_\_\_\_\_*

*B. 2014 Planning Commission Chair & Vice Chair recommendations*

*C. Planning Commission Workshop @ 6:00 p.m. before the next regular meeting scheduled  
February 25, 2014.*

**7. ADJOURNMENT**

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**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES  
December 3, 2013**

**CALL TO ORDER**

Chair Solomonson called the December 3, 2013 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following Commissioners were present: Chair Solomonson, Commissioners, Ferrington, McCool, Proud, Schumer, Thompson and Wenner.

**APPROVAL OF AGENDA**

MOTION: by Commissioner Wenner, seconded by Commissioner Schumer to approve the December 3, 2013 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 7 Nays - 0

**APPROVAL OF MINUTES**

Under Roll Call, Commissioner Thompson should be listed as absent.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to approve the October 22, 2013 Planning Commission meeting minutes, as amended.

VOTE: Ayes - 5 Nays - 0 Abstain - 2 (Proud, Thompson)

**REPORT ON CITY COUNCIL ACTIONS:**

**Presentation by City Planner Kathleen Castle**

The following items forwarded to the City Council for recommended approval were approved:

- Conditional Use Permit for Matthew & Rachel Karel at 863 Tanglewood Drive
- Conditional Use Permit for Thomas & Susann Walgren at 212 Bridge Street
- Comprehensive Sign Plan for Dr. Robert L. Thatcher and John Traeger at 1050 County Road E

**OLD BUSINESS**

**MINOR SUBDIVISION / VARIANCE**

**FILE NO: 2503-13-30**  
**APPLICANT: SAINT MARIE, LLC**  
**LOCATION: 181 SAINT MARIE**  
**Presentation by City Planner Kathleen Castle**

The application is to subdivide the property into two parcels for development as single-family residential. Two variances are requested with the subdivision: 1) to reduce the minimum lot depth of 125 feet to 100 feet; and 2) to reduce the minimum structure setback from 40 feet to 30 feet. The property consists of 25,000 square feet and is a corner lot with frontage on St. Marie and Rustic Place. It is currently developed with a single-family home and detached garage.

The Planning Commission reviewed this application at its October 22, 2013 meeting and tabled the matter because of concerns with the buildable area and building setbacks on the new Parcel A and impacts to the adjacent home to the north as well as the neighborhood. The applicant was asked to provide additional information on the design of the proposed home.

Plans for the proposed new homes have been submitted. The applicant questioned Staff's interpretation of the Code standards regarding front yard setbacks per Section 207.050D4, which pertains to non-conforming lots. The City Attorney has determined that the permitted setback is 27.5 feet. This means the variance request for a reduced front setback is not necessary. The proposed home would be 29 feet from Rustic Place which would be in compliance. The home is a 1.5-story design.

Staff finds that the proposed two lots comply with minimum lot area standards. Unique circumstances that may be considered relate to the existing lot width which determines the depth of Parcel A. With the proposed lot depth, there is sufficient area to build a home on the property. However, the variance could be considered self-created because it is a result of the applicant's desire to subdivide the property. The average lot areas in this neighborhood are 27,000 square feet. The proposed subdivision would create lots that are much smaller with Parcel A being non-conforming. Staff finds that the placement of the existing home and garage from Rustic Place mitigates some of the visual impact to the neighborhood.

Property owners within 350 feet were notified of the proposal. A number of responses were received regarding concerns about impact to the neighborhood. Staff is concerned about the variance being self-created with this application and potential precedent. A new lot would support the City's housing goals with the creation of a new housing opportunity, but all criteria for a variance must be met to grant it.

Commissioner Ferrington noted the 40-foot setback condition of approval in the proposed motion. Ms. Castle explained that with the variance the City can require reasonable conditions. The additional setback is to minimize visual impact.

**Mr. Willie Abbott**, St. Marie, LLC, Applicant, stated that he met with Mr. Hamilton, the neighbor to the north, to discuss how a new home could minimally impact his property. A 1.5-story look brings the house further south and shows less mass next to the Hamilton property. The footprint of the new home is reduced to 1864 square feet, which includes the home and garage.

**Mr. Abbott** further stated that he believes the application meets variance criteria. He referred to Staff's review of a subdivision at 3595 Rice Street and the findings listed with that review, where Staff concurred with hardship due to the configuration of the parcel. The subdivision for a new single-family home is a reasonable use. Unique circumstances exist in that the only configuration of a subdivision requires a variance for lot depth. The lots were platted many years ago, and he has no control over that process. Two sewer stubs were installed in front of the property and assessed for two



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services. At that time, it was recognized that there may be a subdivision. The proposed house is designed to blend into the neighborhood with minimal impact. The home will be approximately 20 feet from the north property line. The second story was stepped back, and the footprint was reduced. The proposal will add value and be an asset to the neighborhood.

Commissioner Proud requested Mr. Abbott to speak to the motion to deny, which finds that the unique circumstances are created by the subdivision. **Mr. Abbott** stated that it is reasonable use to divide the property. Both lots fit the criteria for single-family development with the one exception of lot depth. The size of the lot is over 10,000 square feet, which is adequate for a new residential lot.

Commissioner Ferrington asked if Mr. Abbott met with other neighbors. **Mr. Abbott** responded that the greatest impact will be to the Hamiltons to the north; he did meet with Mr. Hamilton. Since the setback variance is not needed, he did not meet with other neighbors.

Chair Solomonson opened the discussion to public comment.

**Mr. Dennis Hamilton**, 3633 Rustic Place, asked if the subdivision is granted before the variance or if the variance is granted in order to allow the subdivision. His main concern is that in a neighborhood of large airy lots, these two new lots will be barely the minimum size. That is a fundamental change to the character of the neighborhood. He requested that the subdivision not be granted.

**Mr. Mark Casposack**, 3628 Rustic Place, stated that he is directly across the street from the proposed subdivision and will be impacted almost as the property to the north. Their view of the subject property is trees, which will be changed. The applicant has not talked to them about his proposal. His reference to the property on Rice Street is referring to a totally different neighborhood. He, too, is opposed to creating two small lots in a neighborhood of large lots.

**Ms. Marcia Figus**, 3538 Rustic Place, stated that people move into the neighborhood because of the large lots. A small lot with a large house does not fit the character of the neighborhood. There will not be enough room for children to play or outside entertaining.

**Mr. Richard Depner**, 205 St. Marie Street, stated that he has submitted written comments. He is opposed to the subdivision because the character of the neighborhood will be changed and his privacy will be impacted.

**Mr. Nathan Anderson**, 3565 Rustic Place, stated that reference to the Rice Street property as a precedent is not fair, as this neighborhood did not have an opportunity to voice opposition to that application. Reasonable use is subjective. Shoreview discourages creation of key lots, where the rear of one lot abuts the side yard of another property. Code allows a setback increase requirement of 15 feet on any such request. He questioned whether the City has the authority to create such a lot.

**Ms. Wendy Rosse**, 176 St. Marie, stated that she lives next to the property referred to on Rice Street. When that subdivision application was submitted, she and her husband were dealing with health issues and let it go. She has regretted that decision. In order to access her own back yard, she has to tiptoe under the eaves of her own garage, and she wishes that subdivision had never been approved.

**Mr. Ed Capings**, 3678 Rustic Place, stated that squeezing the proposed home on a small lot would not benefit the neighborhood. The applicant will not live in the neighborhood. He does not want this worst case scenario to become a new standard.

Commissioner Proud asked if staff agrees with Mr. Anderson's assessment of creating a key lot. Ms. Castle stated that with the creation of this key lot, added conditions can be imposed. The Code does not prohibit key lots, but the City can discourage them by imposing added conditions.

Commissioner Ferrington asked the amount of setback increase that can be imposed with key lots. Ms. Castle stated that a rear lot line can be increased from 30 to 40 feet and a side setback from 10 to 20 feet. Commissioner Ferrington stated that with 100 feet in lot depth with a 40-foot setback in the rear and the front would leave 20 feet for the width of the house. While she can agree with the criterion of reasonable use, she cannot support the unique circumstance that is self-created. She also cannot agree that there will not be significant impact to the character of the neighborhood.

Chair Solomonson stated that creating a key lot complicates the subdivision that requires a variance. He cannot support it because of the impact to the neighborhood.

**MOTION:** by Commissioner Ferrington, seconded by Commissioner Wenner to deny the lot depth variance needed for the proposed Parcel A and, therefore, recommend that the City Council deny the subdivision for 181 St. Marie Street. With denial of the variance, the minor subdivision cannot be supported. Said denial is based on the following findings of fact as listed:

### **Variance**

1. *The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.* The property owner has reasonable use of the property. The property is developed with and used for single-family residential purposes in accordance with the Development Code requirements.
2. *The plight of the property owner is due to circumstances created by the property owner and not unique to the property.* The act of the minor subdivision itself is a circumstance created by the property owner. While the property exceeds the lot area required to create two parcels, the depth of the Parcel A is substandard to the minimum 125-foot lot depth required. The desire to subdivide the property creates this circumstance.
3. *The variance, if granted, will not alter the essential character of the neighborhood.* The development pattern of this neighborhood consists of large residential lots with depths that exceed the R1 zoning district standards. The average lot area of parcels in the immediate area is 27,242 square feet and the average lot depth on the west side of Rustic Place north of the property is 198.7 feet. The smaller lot areas of Parcel A and B, the 100-foot lot depth for Parcel B alter the essential character of the neighborhood.

### **Discussion:**

Commissioner McCool stated that except for the key lot issue, he would have supported the application. He sees the essential character of the neighborhood as sufficient setback, but that is not achievable on this key lot.

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**VOTE:**                      Ayes - 7                      Nays – 0

## **NEW BUSINESS**

### **REZONING/PRELIMINARY PLAT – PUBLIC HEARING**

**File No:**                      **2505-13-32**  
**Applicant:**                **Lynn Noren / Pulte Homes of Minnesota, LLC**  
**Location:**                **5878 Lexington Avenue**

Commissioner McCool recused himself from consideration of this matter, as his law firm does work with Pulte Homes.

#### **-Presentation by City Planner Kathleen Castle**

This application seeks to change the zoning at 5878 Lexington Avenue from Urban Underdeveloped (UND) to R1, Detached Residential and secondly, to plat the property in 25 parcels for single-family development. The property consists of 9.375 acres. The property has access from Lexington but also frontage on Woodcrest and Bucher Avenues. Vegetation consists of open areas and woods along the west and south property lines. Adjacent land uses are detached single-family residential, multi-family housing and institutional--a water tower.

The Comprehensive Plan is consistent with low density residential land use. The development will not significantly adversely impact surrounding land uses. A Development Agreement will be required with the proposal. The preliminary plat complies with the City's subdivision and zoning requirements. The density proposed is 2.67 units per acre.

A 2005 Needs Assessment Study done by the City identified this area as a candidate area for a future park. Since that time the City has instead focused on improvements to current parks and providing connections to community parks. The public use dedication fee for this development would be used for expanded trails along Lexington to connect the area to community parks and Rice Creek Regional Park.

Woodcrest Avenue would be extended to become a through street. Bucher Avenue would be extended to connect with Woodcrest. The proposed lots do comply with minimum standards. The plan calls for removing 55 landmark trees; 87 would remain. Replacement requires that 187 new trees be planted.

A storm water management plan has been submitted, which the City finds is in compliance with Shoreview standards. A permit will be required from the Rice Creek Watershed District. Outlot A will be an infiltration basin to collect runoff water. Rain gardens will also be used. The plan will be redesigned to address staff concerns about ownership of Outlot A, the visual impact of an infiltration basin and the cost of maintaining it.

Residents within 350 feet were notified of the proposal. Comments were received expressing concern about drainage, parkland needs and traffic. The Fire Marshal expressed no concerns about the proposal. Staff finds that the proposal does comply with requirements to rezone and plat the property

and recommends the application be forwarded by the Planning Commission to the City Council with a recommendation for approval.

Commissioner Wenner asked the closest park to this property. Ms. Castle answered less than a mile to the Turtle Lake School playground and then McCullough Park east of Lexington.

Commissioner Ferrington asked if the soil on the property would work for infiltration and rain gardens and whether there would be an outlet to the City's storm water sewer. Her concern is the amount of impervious surface runoff that will be added and need to be addressed. Ms. Castle stated that the soil in the area is sandy loam, which would be conducive. There is a pipe along the north property line that connects to the City storm water system.

Commissioner Proud stated that his concerns echoes those of staff about the cost of maintaining an infiltration basin. It is important that the drainage system be cost-effective.

Chair Solomonson asked what Best Management Practices would be considered for drainage.

City Attorney Kelly stated that proper notice has been given for the public hearing.

Chair Solomonson opened the public hearing.

**Mr. Ian Peterson**, Vice President Pulte Homes, stated that a neighborhood meeting was held on November 18, 2013. The two main issues discussed were storm water management and the fact that residents would like to see more trees removed. **Mr. Clark Wickland**, Alliant Engineering is present for technical questions. The soils are very conducive to infiltration. Further tests are being conducted. The system being considered is an underground pipe/storage system. An above-ground rain garden system may also be considered, but the rain garden originally proposed in the northeast corner would be deleted, which means no retaining wall would be needed.

Commissioner Proud asked if the drainage system is based on TP40 or current rain events. **Mr. Wickland** stated that the system is based on TP40. New standards for rain events are not yet available. Infiltration impacts downstream are negligible. Rice Creek Watershed District and staff are very thorough. Consideration will be given to preventing flooding and any effects downstream.

Commissioner Proud asked if a state permit would be required to pump out a grit chamber. **Mr. Wickland** explained that efforts would be made for the four drainage areas to be brought to one area where it can be more easily addressed and maintained. It is intended that it would be maintained as green open space with plantings. A basin or underground system would be confined to the north end.

**Mr. Jeff Weis**, 1150 Woodcrest Avenue, stated that his concern is the transition between neighborhoods. The houses proposed are not middle class. The base model is 50% bigger than other houses.

MOTION: by Commissioner Wenner, seconded by Commissioner Schumer to close the public hearing.

VOTE: Ayes - 6 Nays - 0 Abstain -1 (McCool)

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Commissioner Ferrington asked about traffic patterns and how traffic will be handled. Ms. Castle stated that Woodcrest Avenue is estimated at 250 to 300 vehicles per day, which is low volume traffic. The traffic signal at Hamline and Lexington is under the jurisdiction of Ramsey County. At this time a signal is not warranted. Fernwood is a collector street that can accommodate the additional traffic generated by the proposed development. It is currently at 900 trips per day. Traffic from this development to Lexington will use either Woodcrest or Fernwood. The low traffic volume is not anticipated to cause a significant impact.

Commissioner Wenner asked how this proposal meets with the housing goals of the Comprehensive Plan. Ms. Castle stated that as a fully developed community, it is difficult for Shoreview to develop new housing. This proposal fills the need and opportunity for new homes. The lots comply with the R1 dimensional standards for width, depth and area. She does not believe the difference in style of home will have a negative impact on existing neighborhoods.

Chair Solomonson referred to Old Lexington Avenue and asked if the green space in that location belongs to the County. Ms. Castle answered that it is owned by the County.

Commissioner Ferrington noted that the number of trees that will remain will provide a transition between the neighborhoods. She is pleased to see this plan for new housing and appreciates the fact that the developer has met with neighbors.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the following requests submitted by Pulte Group – MN Division to subdivide and develop the property at 5878 Lexington Avenue into 25 lots for single-family detached homes. Said recommendation for approval is subject to the following conditions.

## **Rezoning**

1. A Development Agreement must be executed and financial securities submitted prior to the City's issuance of any permits and/or release of the Final Plat.
2. Rezoning is not effective until City approvals are received for the Final Plat.

## **Preliminary Plat**

1. The approval permits the development of a detached residential subdivision providing 25 parcels for single family residential development.
2. Final grading, drainage and erosion control plans are subject to the review and approval by the Public Works Director prior to approval of any permits or the Final Plat. Concerns identified by the City Engineer shall be addressed with the Final Plat submittal.
3. Final utility plans are subject to review and approval by the Public Works Director.
4. The final street design is subject to review and approval of the Public Works Director.
5. Comments identified in the memo dated November 25, 2013 from the City Engineer shall be addressed with the Final Plat submittal.
6. A Development Agreement, Erosion Control Agreement shall be executed and related securities submitted prior to any work commencing on the site. A Grading Permit is required prior to commencing work on the site.

7. A Public Recreation Use Dedication fee shall be submitted as required by ordinance prior to release of the Final Plat.
8. The developer shall form a homeowners association to maintain the common areas of the subdivision, which will be further described in the Development Agreement. These documents shall be in a form approved by the City Attorney.
9. The landscape/tree-replanting plan shall be provided in accordance with the City's Tree Protection Ordinance. Trees on the property, which are to remain, shall be protected with construction fencing placed at the tree driplines prior to grading and excavating. Said plan shall be submitted for review and approval by the City Planner prior to submittal of the final plat application. The developer will work with the County and City to develop a plan for dead tree and brush removal and tree replacement plantings in the land exchange area.
10. The Final Plat shall include drainage and utility easements along all property lines. Drainage and utility easements along the roadways shall be 10 feet wide and 5 feet wide along the side and rear lot lines. Other drainage and utility easements shall be provided over the proposed ponding areas, infiltration basins and as required by the Public Works Director.
11. The developer shall secure a permit from the Rice Creek Watershed District prior to commencing any grading on the property.

This approval is based on the following findings:

1. The proposed development plan supports the policies stated in the Comprehensive Plan related to land use and housing.
2. The proposed development plan carries out the recommendations as set forth in the Housing Action Plan
3. The proposed development plan will not adversely impact the planned land use of the surrounding property.
4. The preliminary plat complies with the subdivision and minimum lot standards of the Development Code.

**VOTE:**                      Ayes - 6                      Nays - 0                      Abstain - 1 (McCool)

**REZONING/COMPREHENSIVE GUIDE PLAN/PRELIMINARY PLAT/PLANNED UNIT DEVELOPMENT-DEVELOPMENT STAGE – PUBLIC HEARING**

**File No:**                      **2507-13-34**  
**Applicant:**                **Ruth Kozlak / United Properties Residential, LLC**  
**Location:**                **4785 Hodgson Road & 506 Tanglewood Drive**

**Presentation by City Planner Kathleen Castle**

The first part of the application is a request for a Comprehensive Plan Amendment to change the land use on the subject property from Office (O) and Low Density Residential (RL) to Senior Residence (SR). Rezoning is requested from Office to Senior Residence. The Preliminary Plat seeks to plat the two existing parcels into one parcel. A review of the PUD Development Stage is requested for a 77-unit Senior Housing building.

The property consists of 4.2 acres. Adjacent land uses are residential and office to the north. The proposal would demolish the existing improvements in order to construct a senior residential

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cooperative building. With PUD zoning, flexibility is requested for: 1) the number of parking spaces to be provided onsite; 2) setback requirements of the parking area from the road easement or right-of-way; 3) building height; and 4) the structure setback from the Hodgson Road easement.

The building would be three stories. Building materials include stone, brick, stucco and maintenance-free siding with asphalt shingles. On the northwest and southwest ends of the building would drop down to two stories.

The Planning Commission did review the proposal at the Concept Stage and supported the proposed use. The developer was asked to mitigate and minimize impacts to adjoining residential neighborhoods through architectural design, and additional information on parking was requested.

## Staff Review

In SR land use designation, 45 units per acre are allowed. This proposal seeks 18 units per acre. The land use is compatible with adjoining residential, although the difference in density. Rezoning to PUD will not significantly impact surrounding land uses. To the south is Policy Development Area (PDA) No. 9. The guided land use is medium density residential. This type of development supports life cycle housing policy in the Comprehensive Plan.

The preliminary plat to form two parcels into one complies with the City's subdivision standards.

The 39-foot three stories proposed exceeds the City's 35-foot height limit. In order to allow added height, it cannot exceed firefighting capabilities. The Fire Department has reviewed the proposal and has no concerns about the height. An additional foot of setback for each additional foot in height is required. This requirement is in compliance specifically to the residential neighborhoods to the south, west and east. On Tanglewood Drive the right-of-way drops in width and that is where flexibility is requested for setbacks. The height requested falls within the range of other senior housing buildings.

The developer proposes 157 parking stalls on the site with 111 in the parking garage and 46 in the parking lot. This parking ratio is higher than other senior housing developments in the City. The setback to Hodgson is proposed as 5.8 feet with landscaping in the triangular easement owned by Ramsey County. Ramsey County has no issue with the parking lot setback or proposed landscaping.

Property owners within 350 feet were notified, and development signs were posted. Comments expressed concern about compatibility and visual impact and traffic. Staff believes the development is compatible and the flexibility requested is reasonable to what has been allowed with other senior housing developments. Staff is recommending the Planning Commission forward the application to the City Council with a recommendation for approval.

Commissioner Proud asked if the City can control how the property is used. Ms. Castle explained that within the PUD Development Agreement, the City can stipulate how the property is to be used. Any future change would require an amendment.

Commissioner McCool asked why senior housing would be better than office use. Ms. Castle responded that office use is often more intense, which could have a more negative impact to adjacent

residential neighborhoods. Commissioner McCool asked the parking requirement. Ms. Castle stated that 2.5 stalls per unit are required by Code.

Commissioner Farrington asked for a review of the senior housing options in Shoreview and how that compares to a cooperative that is proposed. Ms. Castle stated that Scandia Shores has rental units. Shoreview Senior Living is mixed use--rental, assisted living and memory care. Applewood Point is a cooperative that allows occupants ownership opportunity in the building. That ownership option is not available in the other senior development in the City.

Commissioner Ferrington stated that the minimum age is 55, which may mean two cars per unit. She asked if 10 stalls for visitors are included. Ms. Castle stated that 2.5 stalls does account for visitor parking.

City Attorney Kelly stated that proper notification has been given for the public hearing.

Chair Solomonson opened the public hearing.

**Mr. Brian Kerry**, United Properties, stated that this development is proposed because of need. State demographers project that the Twin City population between 2010 and 2030 will grow 534,000 with approximately 400,000 over age 55. Approximately 300,000 are expected to be in age 55 to age 79 range. Cooperatives are owner-occupied, independent living. The average age in a coop is 72. Cherrywood was recently built in Roseville and was sold out prior to opening. Building will not occur until 60% of the units are sold. The largest percentage who will move to the coop will be residents from the City. Meetings held in Shoreview have resulted in 70 reservations at this time. Senior housing opportunities promote reinvestment in housing stock with new families moving into homes that seniors leave, which also positively impacts the school district.

In response to neighborhood concerns, the plan has been redesigned to show one access point off Hodgson and improved circulation through the site. The building has been pulled further north. The footprint of the building has been reduced and the portion oriented to the west is the two-story portion. The setback has increased by 14 feet to 50 feet. A berm has been created in the southwest corner of approximately 6 feet to enhance buffering with spruce trees. More larger trees have been added throughout the site. A decorative fence has been added to the west and south to replace old fencing. The northeast corner has been pulled back to accommodate the County easement. This has reduced the number of units to 77.

In regard to parking other developments offer a range of 1.3 to 1.6 stalls per unit. At 2.5 stalls per unit, this development will have 25% more parking than any other. Traffic has been reviewed. The impact of this development will be imperceptible to the already 14,000 to 16,000 cars per day on Hodgson. Grading, underground storage tanks, ponding and rain gardens will insure storm water treatment and flow from this site.

Commissioner Proud asked the nature of ownership under a cooperative or if these units are condominiums. **Mr. Kerry** explained that one HUD loan is put on the entire property rather than a separate mortgage for each unit. There are options for size of mortgage. All participate in the master mortgage. A Board of Directors is established and a number of committees. HUD restrictions do not allow owners to rent their units. All units are owner-occupied.



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Chair Solomonson stated that the densest adjacent residential area is at the southwest corner. He asked the reason the west side of the building was dropped to two stories but not the south side. **Mr. Kerry** explained that it was reduced to the extent that it would make an attractive transition. Structurally, it would be more difficult to drop it further.

Chair Solomonson asked if headlights would shine into adjacent homes. **Mr. Kerry** stated that the drive goes down into the garage and headlights are not shining up. He will check to be sure there is adequate screening for headlights.

Commissioner Ferrington asked if 70 reservations means 70 units sold. **Mr. Kerry** stated that a reservation is not a purchase agreement. Information meetings are held. A \$500 reservation deposit is made to hold a unit, which is totally refundable. The project will not proceed until there are 60% buyers into the cooperative with signed purchase agreements.

Chair Solomonson opened the public hearing.

**Ms. Marbeth Austin**, 525 Chandler Court, which is located at the southwest corner of this project. She is pleased to see the landscaping that has now been included. Her one concern is the height of the building. She is pleased that the entry has been reduced to two stories, but behind the entry looms three stories. The residential properties abut right up to this property.

This three-story building will loom over back yards. Over 200 signatures were collected. She disagreed that office buildings, vet clinics do not have heavy traffic coming and going. There is no reason to rezone to a senior residential high density building.

**Mr. Bob Wyant**, 701 Brigadoon Circle, stated that he favors the project and may be a resident in the building. There are a number of commercial developments along Hodgson. The Kozlak property at one time was a bar and boxer training ring. Property uses change over time. There is excess office space and little offices are being built. The most likely use if this project does not occur, will be a restaurant space. The majority of restaurants and bars have the majority of police calls. This project is welcome. He walked the perimeter of the property. The houses to the west now look at the back of a restaurant. The houses to the south look into the parking lot. He believes the impact of this development will be a significant improvement. The number of units is reduced and the dropped height in the corners. Many of the concerns previously expressed have been addressed. He encouraged approval.

**Mr. Steve Chur**, North Oaks, stated that he has actively been involved with the Kozlaks to find the best use for this site. It is a peaceful use. Offices, churches, bars, restaurants would not be nearly as attractive or nice a neighbor as this proposed development. The increased number of spruce trees on the berm will adequately screen the project from adjacent neighbors. This is one of the best developments that could occur, and he encouraged support.

**Mr. Jason Louie**, 4760 Chandler Road, stated that this development will drastically change the character of the neighborhood. Open space is a particular quality of Shoreview, and this huge building will take that away. He does not believe residents' voices are being heard. Preserving open space is important to keeping Shoreview as Shoreview. He asked if there are senior housing developments that abut low density residential housing. He also asked why the building has to be so large.

MOTION: by Commissioner Wenner, seconded by Commissioner Schumer to close the public hearing.

VOTE: Ayes - 7 Nays – 0

Commissioner Thompson stated that the developer has tried hard to address many of the concerns expressed by neighbors. There is a demand for this if almost all the units are reserved. She stated that she supports the project.

Commissioner Wenner noted that former Commissioner Mons lives next to Summerhouse and stated that there were never any problems. This will open housing opportunities for young families to move to Shoreview. It is a good project and he will support it.

Chair Solomonson stated that Summerhouse and Shoreview Senior Living each have one or a few homes abutting the developments. However, this project abuts 11 homes, which is a much bigger impact. Although two ends of the building have been reduced to two stories, he would have preferred to see a larger portion of the building in those locations be two stories. The layout is innovative, but he has difficulty with the impact to the southwest corner and cannot support it.

Commissioner Proud agreed with Chair Solomonson. He stated that he supports the project, but he believes more accommodation needs to be made.

Commissioner Schumer stated that a lot of screening has been added, and the drop to two stories is in areas where it has the most impact. He supports the project.

Commissioner McCool questioned whether this is the highest and best use for this property. However, he believes this will be a good neighbor. This is a large parcel that is underdeveloped. Developers will want as much density as possible. This project meets the setback and he likes what has been done with landscaping. He hears the neighbors' concern, but he believes this is better than what could be done here.

Commissioner Ferrington stated that she is driven to agree with this project because it fills a need for the community. The size is economy of scale. How much can it be reduced and make the project work. It has been reduced by 10 units. She supports it.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the following requests submitted by United Properties Residential, LLC for the redevelopment of 4785 Hodgson Road and 506 Tanglewood Drive with a senior residential cooperative building that has 77dwelling units. Said recommendation for approval is subject to the following conditions.

***Comprehensive Guide Plan Amendment***

1. The amendment changes the land use designation from RL, Low Density Residential and O, Office to SR, Senior Residential.
2. Review and approval of the amendment by the Metropolitan Council.
3. The amendment will not be effective until the City grants approval of the Final Plat and PUD - Final Stage requests.

# DRAFT

## ***Rezoning***

1. This approval rezones the property from O, Office and R1, Detached Residential, to PUD, Planned Unit Development.
2. Rezoning is not effective until approvals are received for the Final Plat, PUD - Final Stage and development agreements executed.

## ***Preliminary Plat***

1. A public use dedication fee shall be submitted as required by ordinance prior to release of the final plat by the City.
2. The Final Plat shall include drainage and utility easements along all property lines. Drainage and utility easements along the roadways shall be 10 feet wide and 5 feet wide along the side and rear lot lines. Other drainage and utility easements shall be provided over the proposed ponding areas, infiltration basins and as required by the Public Works Director.
3. The Final Plat shall be submitted to the City for approval with the Final Stage PUD application.

## ***Planned Unit Development – Development Stage***

1. This approval permits the redevelopment of these parcels with senior residential cooperative building that provides 77 dwelling units.
2. The items identified in the memo from the City Engineer must be addressed prior to the City's review of the Final Stage PUD plans and Final Plat.
3. The luminary plan shall be revised to identify lighting levels compliant with the City Code and exterior light fixture details shall be submitted with the Final Stage PUD and Final Plat submittal.
4. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director, prior to submittal to the City of applications for Final Plat and PUD – Final Stage.
5. The proposed senior housing structure shall be of a 2 and 3 story design as depicted on the plans submitted with this application and dated November 4, 2013. The southwest and northwest corners of the building shall not exceed 2 stories as shown in the plan submittal. These sections of the building step-up to 3 stories towards the interior of the structure. The structure shall not exceed the heights as identified in this report and on the submitted plans.
6. The applicant shall create a Home Owners' Association for the project. The applicant or any subsequent property owner shall be a party to the Association required as part of this plat. The Home Owners' Association documents (articles of incorporation, bylaws, rules and regulations, replacement reserve study and covenants) shall be reviewed and approved by the City Attorney prior to recording and shall include the following:
  - a. The Home Owners' Association shall maintain landscaping/screening and maintenance shall be consistent with the approved landscaping plan.
  - b. Membership in the Home Owners' Association must be mandatory for each property owner and any successive buyer of all units. The dues for such membership must be established to adequately meet the expenses of maintenance and fulfillment of all responsibilities of the Association as set forth in this agreement.
7. The landscape/tree-replanting plan shall be provided in accordance with the City's Tree Protection Ordinance. Trees on the property, which are to remain, shall be protected with construction fencing placed at the tree driplines prior to grading and excavating. Said plan shall be submitted for review and approval by the City Planner prior to submittal of the final plat application.
8. The Final Plat shall include drainage and utility easements along all property lines. Drainage and utility easements along the roadways shall be 10 feet wide and 5 feet wide along the side and rear

lot lines. Other drainage and utility easements shall be provided over the proposed ponding areas, infiltration basins and as required by the Public Works Director.

9. The developer shall secure a permit from the Ramsey Washington Metro Watershed District prior to commencing any grading on the property.
10. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project. The Development Agreement shall address:
  - a. Construction management and nuisances that may occur during the construction process.
  - b. Removal of the existing structures and supporting infrastructure.
  - c. Landscape maintenance
11. This approval shall expire after two months if the Planned Unit Development - Final Stage application has not been submitted for City review and approval, as per Section 203.060 (C)(6).

This approval is based on the following findings:

1. The proposed redevelopment plan supports the policies stated in the Comprehensive Plan related to land use, housing and redevelopment.
2. The proposed redevelopment plan carries out the recommendations as set forth in the Housing Action Plan
3. The proposed redevelopment plan will not adversely impact the planned land use of the surrounding property.
4. The proposed deviations permit this site to be redeveloped with a use that expands life-cycle and affordable housing, including housing choice in the city.

**VOTE:**                      Ayes - 6                      Nays - 1 (Solomonson)

#### **PLANNED UNIT DEVELOPMENT – CONCEPT REVIEW**

**FILE NO:**                      **2506-13-33**  
**APPLICANT:**                **BEN & CAROL OSTERBAUER / ZAWADSKI HOMES**  
**LOCATION:**                   **244 GRAND AVENUE & 244 OWASSO BLVD. NORTH,**  
   **INCLUDING ADJACENT VACANT PROPERTY**

#### **Presentation by Senior Planner Rob Warwick**

The property consists of 2.75 acres and is developed with a single-family home on 244 Grand Avenue. The proposal is to subdivide the property into 10 lots for further development of detached single-family homes. The PUD process is used because of the proposed use of private driveways.

The property is designated RL, Low Density Residential. The immediate surrounding land uses include RL and parks and the Ramsey County Home, which is Institutional (I). Surrounding property is zoned R1. Staff believes that the proposed use for single-family homes is compatible. The proposed density would be 3.65 units per acre, which is consistent with R1 zoning and the planned land use designation.

# DRAFT

The preliminary plat needs to include lot widths of a minimum of 75 feet, 125 feet in lot depth and a lot area of a minimum of 10,000 square feet. There must be frontage on a public road with access to municipal sewer and water. Utilities shall be underground, and plans for storm water management shall be submitted. The development is subject to park fees.

The proposed lots exceed the minimum lot size and have frontage on a public road, although a portion of Grand Avenue is not surfaced. The proposal for a private drive access for the proposed lots raises concerns about public or private ownership, maintenance responsibilities and public safety.

Staff notes that the City's Capital Improvement Program (CIP) has a designated street improvement project for 2019. As a result of the proposed subdivision, the City. This would address storm water management and the concern about a private drive and would provide improved public street access to the proposed lots. A permit from Ramsey-Washington Metro Watershed District would be required.

The proposed vacation of public right-of-way would be submitted with the final plat review. The vacation includes the alley right-of-way and a portion of unimproved Centre Street. Currently, Centre Street is used by residents to access the rear of their properties. Residents would oppose vacation, if that access would be impacted.

The property is significantly wooded. A tree inventory will be required, and tree replacement will be required per Code.

Property owners within 350 feet were notified. Concerns relate to changes of neighborhood character, traffic, loss of wildlife habitat and tree loss.

Commissioner Ferrington asked the reason for vacation of the public alley. Mr. Warwick stated that vacation is not needed for lot depth or minimum lot area requirements. The alleys are not maintained by the City. The right-of-way for Centre Street is 60 feet wide. Vacation of a portion would almost be the size of another lot for development.

Commissioner Proud asked if a developer would fund necessary access roads. Mr. Warwick stated that the residents and City will be better served with improved road surfaces. Costs to the developer will be discussed as the plan progresses.

Commissioner Proud stated that this area may be one where added requirements for surface water management are needed.

Commissioner McCool suggested that extending Grand Avenue to a cul-de-sac would eliminate the need for any private drives. Mr. Warwick agreed but noted that the Fire Department would like to see better connectivity for Janice Alley and Centre Street. That would drive a City project. Grand Avenue would be improved for public access.

Commissioner Ferrington asked if the alley could alleviate access onto North Owasso Boulevard, a very busy street. Mr. Warwick responded that staff does not support use of alleys that are difficult to maintain. It has been determined that residents would not back out of drives onto North Owasso Boulevard but would have to be able to drive out.

**Mr. Steve Zawadski**, 5476 Lake Avenue, stated that he would be the builder and developer. It is anticipated the homes would be in the \$400,000 price range. The goal is to get comments. Single private driveways were proposed because there is no road. Road improvements could bring the neighborhood together.

**Mr. Robert Hoertsch**, 266 North Owasso Boulevard, asked the Commission to consider the impacts of vacating Centre Street to North Owasso Boulevard. There is no parking on North Owasso Boulevard, and the alleyway is used for parking as well as rear access. Although the lot sizes, meet minimum standards, 75-foot lot widths dictate that the homes be built with a north/south orientation. Other houses in the neighborhood are oriented east/west. The neighborhood is eclectic with no two homes the same. Also, the houses will be closer to the road than existing houses that are on larger lots. The area around the lake is a wildlife habitat for bald eagles, deer, fox. The trees provide shelter, homes and food for the wildlife. He does not object completely to the proposal, but it is too dense. He is concerned about water quality as he has had to put in two water purifiers to get clear water. His water pressure is very low and that is also a concern.

**Mr. Lee Byngelson**, 277 North Owasso Boulevard, stated that originally his only access to his property was Centre Street and the alley. If the alley is vacated, he will not be able to access his garage. A loss of 10 feet of the alley will give him 10 feet for a u-turn into his garage. There would be no parking for guests. He maintains Centre Street with a snowblower. He has offered to buy the two lots behind him and would like the opportunity to purchase it. The water runoff is an issue because it slopes down Grand to his yard. He would be concerned about headlights shining into his house. He is not opposed to the development as a whole, but he is concerned about vacation of the alley and orientation of the new homes.

**Ms. Kathy Connolly**, 3384 Centre Street, stated that she likes the development as planned. She did submit a letter of concern regarding the style of home. What is shown on the website is beautiful and she would approve. The water runoff is an issue, and they have invested a significant amount in drain tile. She would be pleased for the cottonwoods to be taken out. Some of the right-of-ways could be vacated other than what is used for access. The property owned by the City is not maintained and could be vacated to be maintained by property owners.

**Mr. Bob Bevins**, 236 Grand Avenue, stated that he does not want to see Grand Avenue opened to traffic. It was opened once in the past and cars speed through the area. He favors the proposal but does not want to see Grand opened.

Commissioner Ferrington asked the reason to vacate the alley. **Mr. Zawadski** responded that he thought the alley was not being maintained and was not used. He thought it would help the area. However, he is willing to reconsider that request.

Commissioner Proud stated he does not want to see shared private driveways. The development should wait for public streets. There are surface water issues that need to be addressed. Access to existing properties is an issue with the confined routes of access and traffic. The layout is military, and he would like to see more style

Chair Solomonson stated that his main concern is frontage on a public street, but with road improvements that would be addressed. Another concern is alley access to garages.

# DRAFT

Commissioner Ferrington expressed concern about vacating Centre Street up to the alley. If Centre Street is not vacated, there are three lots that could not be developed. She would propose that the other lots then be widened to allow more flexibility in alignment. In general, this is a nice development. Addressing drainage issues is critical with the lake in the area.

Commissioner Wenner echoed Commissioner Proud's concern about more creativity in the layout. The character of this neighborhood has evolved over time and is very eclectic. The uniformity being dropped denies creativity. The additional curb cuts on North Owasso Boulevard disturbs the bike trail in the neighborhood. He would like to see private driveways on Grand Avenue minimized and have those curb cuts directly onto the public street of Grand Avenue.

Commissioner Schumer agreed that the development has a box look. The alley is a tough situation. If that is access for some property owners, it is tough to vacate it.

Commissioner Thompson echoed the concerns of Commissioner Proud. Also, more curb cuts on North Owasso Boulevard will impact trail use. She would prefer to see more diversity to maintain the beautiful area that it is.

Commissioner McCool stated that he does not favor private driveways, but he understands the City may not move at the same pace as the developer. He does not believe vacation of the alley is feasible. He would like to see less vacation on Centre to leave more driving room. He would also like to see the house orientation on North Owasso Boulevard changed. This is a good concept and creative use of the property.

## MISCELLANEOUS

Commissioner Wenner will attend the City Council meeting on December 16, 2013.

The Planning Commission will hold another meeting on December 10, 2013.

## ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to adjourn the meeting at 11:25 p.m.

VOTE: Ayes - 7 Nays - 0

ATTEST:

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Kathleen Castle  
City Planner

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## SHOREVIEW PLANNING COMMISSION MEETING MINUTES December 10, 2013

### CALL TO ORDER

Chair Solomonson called the December 10, 2013 Shoreview Planning Commission meeting to order at 7:00 p.m.

### ROLL CALL

The following Commissioners were present: Chair Solomonson, Commissioners, Ferrington, McCool, and Wenner.

Commissioners Proud, Schumer and Thompson were absent.

### APPROVAL OF AGENDA

MOTION: by Commissioner Wenner, seconded by Commissioner Ferrington to approve the December 10, 2013 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 4 Nays - 0

### NEW BUSINESS

#### PUBLIC HEARING - CONDITIONAL USE PERMIT - VISHAL & HOLLI SOOKHAI, 1001 ISLAND LAKE AVENUE

FILE NO.: 2508-13-35  
LOCATION: 1001 ISLAND LAKE AVENUE  
APPLICANT: VISHAL & HOLLI SOOKHAI

#### **Presentation by City Planner Kathleen Castle**

The applicants seek a conditional use permit to construct a 252 square foot accessory structure on their property. On parcels less than one acre in size, a conditional use permit is required for structures between 150 square feet to 288 square feet in size. The property is zoned R1 and consists of 0.62 acre, a lot width of 120 feet and a lot depth of 225 feet. The single family home on the property has a foundation area of 1,164 square feet with an attached garage of 506 square feet.

The proposal is to build a 14-foot by 15-foot accessory structure 10 feet from the east side property line and 15 feet from the rear lot line to the south. It would be used to store yard maintenance equipment and yard furniture. It would not be in view of an adjacent home or the street and complies with all design standards.



# Draft

Surrounding property owners were notified of the proposal. Two comments were received in support with no issues identified.

Staff believes the proposal satisfies all conditions for a conditional use permit and recommends approval with the conditions listed in the staff report.

A question for the applicant from Commissioner Wenner would be to indicate what utilities would be connected to the shed and whether it would be used for repairs.

Commissioner Ferrington asked for clarification regarding the applicant's statement that the existing structure is an eyesore. Ms. Castle stated that she is not aware of any other accessory structure on the property.

Commissioner McCool asked what exterior materials will be used. Ms. Castle answered a grooved siding that will be matched to the color of the house.

Commissioner McCool noted a survey provided by the applicant from 1973. He asked the City's field verification process before the foundation is poured. He would want to be sure the setback is correct. Ms. Castle stated that to obtain a building permit, the applicant will have to expose the property lot corners the setbacks are verified with an inspection.

City Attorney Kelly stated that proper public notice has been given for the public hearing.

Chair Solomonson declared the public hearing open.

**Mr. Tom Sampson**, 4348 Hamline Avenue North, Representative for the Applicant, stated that the old structure has been torn down and is no longer on the property. The siding will be lapboard and the same color as the house. He is not sure if there will be electricity.

MOTION: by Commissioner Ferrington, seconded by Commissioner Wenner to close the public hearing.

VOTE: Ayes - 4 Nays - 0

Commissioner McCool stated that he would like the condition in the motion regarding the exterior appearance to be clarified that it will match the existing home. He would prefer not to have utilities in the building. He would limit any utilities to electricity.

MOTION: by Commissioner McCool, seconded by Commissioner Wenner to approve the application submitted by Vishal and Holli Sookhai to construct a detached accessory structure on their property at 1001 Island Lake Avenue subject to the following five conditions, revising condition No. 2 and adding condition No. 6:

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1. The project must be completed in accordance with the plans submitted with the application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and finish of the structure shall be compatible with and will be substantially similar to the exterior design of the dwelling.
3. The applicant shall obtain a building permit for the structure.
4. The structure shall be used for residential storage of yard maintenance and outdoor furniture.
5. The structure shall not be used in any way for commercial purposes.
6. The structure shall have no utilities other than electrical.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE:                      Ayes - 4                      Nays - 0

## **PUBLIC HEARING - CONDITIONAL USE PERMIT AMENDMENT - BETH SIPE AND DONNA GARBOWSKI, PAULSON ADDITION, INCLUDING 218 GALTIER PLACE**

**FILE NO.:**                      2509-13-36  
**APPLICANT:**                BETH SIPE AND DONNA GRABOWSKI  
**LOCATION:**                    PAULSON ADDITION, 218 GALTIER PLACE

### **Presentation by Senior Planner Rob Warwick**

The amendment requested is to an approved conditional use permit in 1979 and re-approved in 1982 that prohibits grading or construction within the south 30 feet of the development, so that a natural buffer would remain to separate the development from the single-family housing to the south. Mrs. Grabowski wishes to purchase the property at 218 Galtier and install a fence surrounding the rear yard. This is prohibited by the conditional use permit. Therefore, she requests an amendment that continues to prohibit grading and construction but would allow fences with a maximum height of 4 feet. Fence materials would be limited to wood and brown, black or green chain link. Silver finish fences would be prohibited.

The property is zoned R2. Fence regulations apply uniformly in all residential districts with 4 feet allowed in front yards and six feet in rear yards. Fences are permitted in the Paulson

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Addition but not in the south 30 feet. A rear fence was approved for 218 Galtier that is 38 feet in length and 5 feet in height.

City records do not show any evidence that the original special use permit (now termed conditional use permit) was recorded for the Paulson Addition or that a homeowners association was formed. Staff believes that owners of the duplex houses are unaware of the conditional use permit, as permits for existing fences have been issued.

Notice of this application was mailed to property owners within 350 feet. Ten responses were received, six with no objection. Other responses express concern about fence style, materials to be used, future maintenance and potential lack of uniformity between properties.

Staff finds that the proposed amendment complies with the R2 District regulations and standards of the Development Code. The request is compatible with the Land Use Chapter of the Comprehensive Plan. It is staff's recommendation to forward this application to the City Council for approval.

Commissioner Ferrington asked if the conditional use permit is binding if there is no homeowners association. Mr. Warwick stated that the special use permit runs with the land and was approved by the Council.

City Attorney Kelly advised proceeding as if there is a recorded conditional use permit. The issue is uniformity and a measure of control.

Commissioner Wenner asked if the reason for the special use permit is because the properties have zero lot lines. Mr. Warwick explained that in the 1979 and 1982 any residential development that was not a single-family development required a special use permit prior to construction. This one was issued twice because in 1979, there was no construction and the special use permit expired. When construction occurred in 1982, the special use permit was brought again for approval.

Commissioner McCool asked how drainage is managed in the rear yards. Mr. Warwick stated that water flows west to east on a downward slope. To the east there is a storm water pond. Commissioner McCool asked if the amendment is only for 218 or for all the properties in the Paulson Addition. Mr. Warwick answered that the amendment would be to the conditional use permit for the entire Paulson Addition and apply to any property within that Addition. Commissioner McCool stated that he would not favor a chain link fence. Mr. Warwick stated that a natural colored chain link fence blends in, so that 60 feet away it is not possible to see the fence. The intent of the applicant's proposed fence is to enclose space for pets.

City Attorney Kelly stated that the conditional use permit amendment should apply to the whole addition to preserve uniformity. Proper notice has been given for the public hearing.

Chair Solomonson opened the public hearing.

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**Ms. Donna Grabowski**, 577 38th Avenue NE, Columbia Heights, stated that the reason for the fence is because she has two small dogs. She also works for the Minnesota Humane Society and sometimes foster cares for a dog until a permanent home is found. There is a chain link fence in existence in another yard. Her back yard is only 50 feet. If she has to install the fence 30 feet into the yard, the fence would run right through the middle, which would not be attractive. The back yard has been well maintained to keep the buffer. She does not want to put up a wood fence that will require maintenance.

**Ms. Beth Sipe**, 218 Galtier, stated that she supports Ms. Grabowski's application because the original reason for the wooded buffer is no longer valid. Trees have been removed and the look is completely different.

**Ms. Barbie Yarusso**, 201 Bridge Street, stated that this fence would be opposite her back yard. The reason for the loss of trees is because of oak wilt. The natural buffer has been taken over by buckthorn in places. The picket fence was not maintained because the current owner did not realize the fence was on her property. She would prefer the dark chain link fence rather than a wood fence because it will stay in good repair, and it will not upset sight lines through the neighborhood.

**Mr. Jerry Logan**, 216 Galtier, stated that he, too, would prefer a dark chain link fence. He asked where the fence would be placed and if a survey is needed to place the fence. He asked if there is a setback requirement. He would agree that there is no buffer zone and the natural state is long gone. He asked if it would be possible for him to put a fence in that is 6 feet. Mr. Warwick stated that the fence must be fully on the subject property, which means locating the property corner irons or having the lot resurveyed. A 6-foot fence would not be permitted on the south 30 feet of the property. A 6-foot fence could be put on the side lot line and a 4-foot fence in front.

MOTION: by Commissioner McCool, seconded by Commissioner Wenner to close the public hearing.

VOTE: Ayes - 4 Nays - 0

Commissioner Ferrington asked if there is a reason to keep the conditional use permit in place in light of the fact that the south 30 feet in actuality no longer provide a buffer zone. Mr. Warwick agreed that it is awkward to have the buffer since residential uses are compatible. However, staff only addressed the application as presented.

Chair Solomonson stated that since all homes could construct a 6-foot side yard fence, he does not see the reasoning to reduce the rear fence to 4 feet. He would like to see a 6-foot rear yard fence allowed.

Commissioner McCool stated that the conditional use permit applies to all 12 units, but only one person is asking for an amendment. He would suggest eliminating the condition restricting height to 4 feet and put in a condition that allows fences as regulated by City Code. He suggested the following condition: "Construction of a fence shall be permitted within the 30-

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foot natural area. Any fencing on the property shall be constructed in accordance with City Code provided it shall be made of wood stained with a natural color or chain link in black, brown, black or dark green in color. Galvanized, aluminum or silver finish would not be permitted.”

Chair Solomonson stated that he would like the same restrictions for a fence in the 30-foot buffer to apply to any fence in this development.

MOTION: by Commissioner McCool, seconded by Commissioner Ferrington to recommend City Council approval for the Conditional Use Permit Amendment to Special Use Permit 756-79-05B for the Paulson Addition submitted by Donna Grabowski. This approval amends Condition No. 4 of the SUP to read as follows:

No grading or construction of any building will be permitted within 30 feet of the south property line of the Paulson Addition. The 30-foot area shall be preserved in its natural state to serve as a buffer from the single-family homes to the south. Construction of a fence shall be permitted within this natural area and may connect with the existing fence along the south lot line as long as it is no more than 4 feet in height and made of wood, stained with a natural color or chain link fencing in brown, black or dark green in color. Galvanized, aluminized or silver finish fencing material will not be permitted.

This motion includes the following amendment: The approval shall add a condition No. 12 to the Special Use Permit, which shall read as follows: “Construction of a fence shall be permitted within the 30-foot natural area at the rear of the property. Any fencing on the property shall be constructed in accordance with City Code provided it shall be made of wood stained with a natural color or chain link in black, brown, black or dark green in color. Galvanized, aluminum or silver finish would not be permitted.” Approval shall be conditioned to the two conditions in the motion sheet except No. 1 where there are references to condition No. 4 shall be replaced by reference to condition No. 12.

This approval is subject to the following conditions:

1. Conditions identified in Special Use Permit 756-79-05B shall remain in effect as enumerated in the original SUP, with the exception of Condition No. 4, as amended.
2. The Building Official is authorized to issue a building permit for the project, upon satisfaction of the conditions above.

Said approval is based on the following findings of fact:

1. The proposed fencing will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the development will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The use conforms to the Land Use Chapter of the Comprehensive Guide Plan and is compatible with the existing neighborhood.

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## Discussion:

Commissioner Ferrington stated that it would be her preference to strike the condition that the 30-foot buffer remain. It is not consistent with current code that buffers are not needed between compatible residential zones.

**Ms. Yarusso** stated that she suspects that the buffer was created to retain the oak trees that are not there anymore.

Chair Solomonson asked if the drainage easement would be impacted with removal of the buffer zone. Mr. Warwick answered, no.

Commissioner McCool stated that he would not want to eliminate the buffer because it would allow residents to clear cut back yards. There is still some level of tree cover, and that would be too significant a change.

City Attorney Kelly noted that a notice to the public should be published prior to eliminating the buffer.

VOTE:                      Ayes - 4                      Nays - 0

## **VARIANCE - ALEKSANDER MEDVED AND SARAH MORRIS, 5555 WOOD DUCK COURT**

**FILE NO.:**                      2510-13-17  
**LOCATION:**                      5555 WOOD DUCK COURT  
**APPLICANT:**                      ALEKSANDER MEDVED AND SARAH MORRIS

### **Presentation by City Planner Kathleen Castle**

The request is to reduce the side setback adjacent to a public right-of-way to 10 feet and to increase the allowed size for an accessory structure to 416 square feet. This would exceed the total square footage of accessory structure allowed on the property.

The property is zoned R1, Detached Residential and consists of .35 acres. The lot width is 92.48 feet. There is an existing single-family home of 1,484 square feet and an attached garage with 816 square feet.

When the property owners purchased the property in 2013, there was a 237 square foot concrete slab foundation for with a new 237 square foot enclosed shed with a total roofed area of 416 square feet. An additional 179 square feet of covered area is open without walls to serve as a sheltered play area. A building permit was not obtained; applicants were not aware a permit was needed. The design of the structure compliments the architecture design of the home.

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Code requires that accessory structures be set back the same as a home from a right-of-way. The home has a setback of 32 feet; the shed is 10 feet. Hence, the request for the variance. The total square footage for accessory structures permitted is 1200 square feet or 90% of the foundation area of the home, whichever is more restrictive. There is 1232 square feet in this instance, and a variance is needed for the additional square footage. If the 90% rule were applied, the applicants would be allowed 1,335.6 square feet. The exterior height of the shed is in compliance. However, the interior height is 7.5 feet, when Code allows only 6 feet. The applicants have indicated that they will convert the interior to comply with Code as part of this proposal. The structure is difficult to see and has significant screening from County Road I.

Staff finds that reuse of the slab is reasonable, and vegetation that exists screens the shed from the street and trail. The slab location and size are unique circumstances not created by the property owner. The character of the neighborhood would not be altered.

Property owners within 350 feet were notified of the proposal. One comment was received with no concerns. Staff is recommending approval of the variance with the conditions listed on the motion sheet. A revised motion sheet has been distributed that shows an added condition No. 2 that the roofed porch area of the shed must remain open and cannot be enclosed with screens or any material.

Chair Solomonson asked if the structure could be rebuilt to this size if it were destroyed. Ms. Castle stated that it would have to be rebuilt according to these approved plans.

Commissioner Wenner asked if the materials used are compatible with the home.

**Mr. Aleksander Medved**, Applicant, apologized for not obtaining a permit. The exterior materials of the shed have smartside siding, not the same as the house but is identical in color. The trim is the same in size and color as well as the roof. He stated that because the porched area is shaded, he would like to have a more durable surface, such as decking.

Commissioner Ferrington asked how the interior will be modified to comply with the required 6-foot height. **Mr. Medved** explained that the height is a result of matching the roof pitch of the house. It will be easy to insert lateral trusses to comply. He will work with staff.

**Mr. Mark Gamash**, 5565 Wood Duck Court, stated that a building permit was obtained for a fence that abuts his fence. There was no permit posted for the shed. It took the City a month to find out there was no permit, which gave the applicant a month to build it. The slab is perhaps 3 or 4 inches, and his question is whether the slab is adequate for the structure and whether there are sufficient footings for the posts because six feet down is water.

Commissioner Wenner asked if the City Building Inspector inspects the building once they are built. Ms. Castle responded that the variance is needed before an application can be accepted for a building permit. Commissioner Wenner noted that had an application been made to build the shed, the overhang porch would not have been permitted. This is a benefit others do not have. From that standpoint, he would not want to allow any extension of the cement slab and would not favor a deck.

# Draft

Commissioner McCool stated that he would not have voted for a structure of this size. The building is within Code, but he would be in favor of restricting any more impervious surface in the porch area. He would suggest sod or pervious landscaping material. He is concerned about minimizing mass and the footprint.

Commissioner Ferrington stated that whatever material is used under the overhang will add to the mass of the structure. She would not support an extension of the slab.

**Mr. Medved** clarified that pervious would include decking. Ms. Castle stated ground level decking would be pervious. Raising the height of the decking adds to the structure. She suggested no higher than first floor level.

Commissioner McCool asked if there is a grade issue to installing the decking. **Mr. Medved** stated that the grade change in that area is very slight, no more than 8 inches. He would envision it to be minimally off the ground. He would trust staff to work with the applicant on an acceptable pervious material to be used. Ms. Castle noted that railings would not be permitted with any decking.

**Mr. Gamash** asked if there are any utilities planned for the structure. Ms. Castle stated that certain utilities would be allowed.

MOTION: by Commissioner McCool, seconded by Commissioner Wenner to adopt Resolution 13-111 approving a variance to reduce the side yard setback to 10 feet and increase the allowable accessory structure square footage on the property at 5555 Wood Duck Court subject to the following nine conditions with an addition to condition No. 2 that “the floor area within the unenclosed play area shall be sod or some pervious landscaping material and shall not be a concrete slab or similar impervious material. The improved floor area shall not extend beyond the roof line of the structure.” The approval is subject to the following conditions:

1. The unenclosed play area will not be used for outside storage.
2. The unenclosed area will remain open. No wall system that consists of substantially of screens, windows, and/or doors may be permitted. This condition was amended to add the following: “The floor area within the unenclosed play area shall be sod or some pervious landscaping material and shall not be a concrete slab or similar impervious material. The improved floor area shall not extend beyond the roof line of the structure.”
3. The interior storage area above the main floor will be modified to comply with development code standards. Plans must be submitted showing how the proposed modification will be made.
4. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
5. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
6. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.



# Draft

7. The applicant shall obtain a building permit for the structure.
8. The structure shall be used for the personal storage of household and lawn equipment.
9. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

Discussion:

Chair Solomonson asked if the motion should include that the improved floor must be at grade.

Commissioner McCool stated that the roof height limits any floor height, but he would be happy to add a further condition if it is the consensus of the Commission. He noted the motion does not address utilities.

**Mr. Medved** stated that he only plans electricity on the interior. He was thinking of a sconce on the exterior but no flood light.

Commissioner Ferrington noted that the proposed enclosed structure size is less than what is permitted, and the total square footage with the unenclosed porch area is less than 90% of the foundation area of the home. The predominant structure on the property is the home.

Commissioner McCool amended his motion to add condition No. 10 that no utilities other than electrical may be extended to the structure. Commissioner Wenner accepted the amendment.

VOTE ON AMENDED MOTION:

Ayes - 4

Nays - 0

## **WIRELESS TELECOMMUNICATIONS FACILITY PERMIT - VERIZON WIRELESS, LLC - 5880 LEXINGTON AVENUE**

**FILE NO.:** 2502-13-29  
**APPLICANT:** VERIZON WIRELESS, LLC  
**LOCATION:** 5880 LEXINGTON AVENUE

**Presentation by Senior Planner Rob Warwick**

# Draft

An application for a wireless telecommunications facility permit has been received from Verizon, LLC. The proposal is to collocate facilities at the City's North Water Tower, which would include antennas and a 12-foot by 30-foot equipment shelter, including an emergency power generator housed inside the shelter.

There are three existing wireless facilities at the North Water Tower--Sprint, Clearwire Corporation and T-Mobil. Verizon proposes to lease an area west of the tower that would be 20 feet by 40 feet for the shelter. The shelter would be fenced and accessed by Verizon as needed. The shelter is a pre-fab building with a hip roof. Four antennas for each of the three sectors are proposed. There is one existing Verizon facility on the South Water Tower; one is approved for Sitzer Park, and another application has been received for the Maintenance Center. The purpose is to improve strength of Verizon users in this area.

The antennas will be painted to match the tower. Landscaping is recommended to screen the shelter. Public Works staff have indicated that the shelter will not impact any operations of City staff. OWL Engineering will verify that there is no frequency interference once the site is operational and that RF Emissions comply with FCC standards. The generator will be used for emergency power only and routine maintenance. The application complies with City standards.

Notice was mailed to property owners within 350 feet. One response was received expressing concern about noise during installation and screening from houses to the north. Staff is recommending the application be forwarded to the City Council for approval with the conditions listed in the staff report.

Commissioner Wenner asked if this facility will be screened from a proposed new development to the southeast. Mr. Warwick stated that screening is the responsibility of the applicant. There is little area between the fence and shelter. Shrubs will be used rather than trees to break up the mass of the building. The hip roof gives the shelter a residential look.

In response to Commission concerns for screening for residential areas, Mr. Warwick stated that a number of options are being considered that will work for Verizon and provide good screening.

Commissioner Ferrington asked how many more companies might collocate at this site. Mr. Warwick stated that the City does not limit the number. He anticipates an application from ATT&T for this site. There are more options for vertical space than plans for ground space.

MOTION: by Commissioner Wenner, seconded by Commissioner Ferrington to recommend the City Council approve the wireless telecommunications facility permit for Verizon Wireless LLC to collocate antenna at the existing City water tower located at 5880 Lexington Avenue and to install an equipment shelter on a 20-foot by 40-foot leased area subject to the seven listed conditions and two findings of fact.

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to

# Draft

these plans, as determined by the City Planner, will require review and approval by the Planning Commission.

2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is contingent upon the City Council authorizing the lease with Verizon Wireless LLC, including the 20 by 40 foot equipment site and an easement for ingress and egress.
4. A landscape plan shall be submitted for approval by the City Planner. The landscaping shall be planted to provide visual screening of the equipment structure from Lexington Avenue.
5. The site is subject to confirmation that RF emissions conform to FCC requirements. Verizon shall notify the City when the system is installed, prior to operation. A City selected RF engineer shall be provided access to the site to test RF emissions.
6. A permanent emergency power generator may be installed within the equipment shelter. The emergency power generator shall be used for emergency power only, except the times it is being run for routine maintenance, which shall not exceed thirty (30) minutes once a week between the hours of 4:00PM and 6:00PM CST, Monday through Friday, holidays excluded. The operation of the emergency generator shall comply with City regulations pertaining to Noise (Section 209.020 of the Municipal Code).
7. The applicant shall enter into a Wireless Telecommunications Tower/Antenna Agreement with the City, as required.

Approval is based on the following findings of fact:

1. The site is located in the TOD-2 where wireless telecommunications facilities collocated on an existing tower is a permitted use.
2. The proposal complies with the adopted City standards for Wireless Telecommunications Facilities, as specified in Section 207.040 of the Municipal Code.

Commissioner McCool offered an amendment to condition No. 4 to end the second sentence after the word structure to state, "The landscaping shall be planted to provide visual screening from the equipment structure."

The amendment was accepted.

VOTE ON THE AMENDED MOTION:

Ayes - 4

Nays - 0

Chair Solomonson called a five-minute break and reconvened the meeting.

# Draft

## **PUBLIC HEARING - TEXT AMENDMENT SECTION 211.070 HOUSING CODE**

**FILE NO.:** 2511-13-38  
**APPLICANT:** CITY OF SHOREVIEW  
**LOCATION:** CITYWIDE

### **Presentation by City Planner Kathleen Castle**

The intent of this amendment to the Housing Code is to address interior common areas in multi-family residential structures. There have been concerns about interior common areas in multi-family structures. The amendment would add the term “structure” and “common area” to Section 211.070. The amendment addresses common waste disposal and proper maintenance of elevators in accordance with state regulations. Minimum maintenance standards for interior common areas must be in compliance.

Notice of this public hearing was published in the newspaper, and multi-family complexes were notified of the amendment. No responses of concern were received.

City Attorney Kelly stated that proper notice has been given for the public hearing.

Chair Solomonson opened the public hearing. There were no comments or questions.

**MOTION:** by Commissioner Wenner, seconded by Commissioner Ferrington to close the public hearing.

**VOTE:** Ayes - 4 Nays - 0

Commissioner Ferrington asked the meaning of “workmanlike repair” and “workmanlike manner”. Ms. Castle explained that the terms are used throughout the City’s property maintenance code and means maintaining operational standards of the trade or industry involved.

Commissioner McCool stated that he would like references to residential structures include common areas. Also, where there is reference to occupy common areas he would suggest stating “use and occupy” because common areas are not usually occupied.

**MOTION:** by Commissioner Ferrington, seconded by Commissioner Wenner to recommend the City Council approve the amendment to Section 211.070, Housing Code, to address the maintenance of common areas located within multi-family complexes.

# Draft

## Discussion:

Commissioner Wenner offered an amendment to include the recommended changes stated by Commissioner McCool. Commissioner Ferrington accepted the amendment.

## VOTE ON THE AMENDED MOTION:

Ayes - 4

Nays - 0

## MISCELLANEOUS

### **City Council Meeting Assignments**

Commissioners Proud and Ferrington are scheduled to respectively attend the January 6th and January 20th City Council meetings.

### **2014 Planning Commission Chair and Vice Chair Recommendation**

Ms. Castle stated that the Chair and Vice Chair positions expire January 31, 2014. She would like to delay this recommendation until a full Commission is present.

It was the consensus of the Commission to move forward with Chair Solomonson and Vice Chair Schumer continuing in the same positions, if Commissioner agrees to continue as Vice Chair. The recommendation will be held over to the next meeting, January 28, 2014.

### **Review of 2014 Calendar and City Council Meeting Assignments**

Staff will send an email to Commissioners not present to make sure the the calendar assignments work in their schedules.

## **ADJOURNMENT**

MOTION: by Commissioner Wenner, seconded by Commissioner Ferrington to adjourn the meeting at 9:53 p.m.

VOTE:

Ayes - 4

Nays - 0

ATTEST:

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Kathleen Castle  
City Planner

**TO:** Planning Commission

**FROM:** Niki Hill, Economic Development and Planning Technician

**DATE:** January 24, 2014

**SUBJECT:** File No. 2495-13-22; Kevin and Sara Ousdigian, Variance, 5107 Alameda Street  
– Variance Requested to be Tabled 120 days

## **INTRODUCTION**

In September 2013, the City Council approved a request submitted by Kevin and Sara Ousdigian to divide the property at 5107 Alameda Street into two parcels. The existing home remains on Parcel A and Parcel B is a vacant residential lot for a future single-family home.

An application was also submitted for a variance to reduce the required building setbacks for the future home on the vacant parcel (Parcel B). The Planning Commission approved the tabling of the variance for 120 days so that the applicant could develop a building plan. The 120 days expired January 22<sup>nd</sup> and prior to the expiration the applicant has asked that we allow an additional 120 day extension period to develop buildings plans for the future home. Parcel A, with the existing house is in the process of being sold and the applicant has decided to develop on Parcel B.

## **BACKGROUND**

Parcel A, the parcel with the home is in the process of being sold with a mid-February close date. The applicant has decided to build on Parcel B and is in the process of developing plans. The survey depicting the subdivision and the approved Resolution for a variance in the lot widths are also attached. The City has not yet endorsed the Deeds for recording.

## **STAFF RECOMMENDATION**

The proposed request tabling the variance for an additional 120 days is reasonable due to the sale of Parcel A and the recent decision to build on Parcel B. Staff recommends the variance request for the structure setback be tabled, and the review period extended an additional 120-days to provide the applicant opportunity to develop a building plan.

### **Attachments**

- 1) Location Map
- 2) Applicant's Statement
- 3) Approved Subdivision – Survey
- 4) Approved Subdivision – Resolution.
- 5) Motion



# 5107 Alameda Location Map











348.0  
0 174.00 348.0 Feet  
NAD\_1983\_HARN\_AdJ\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend











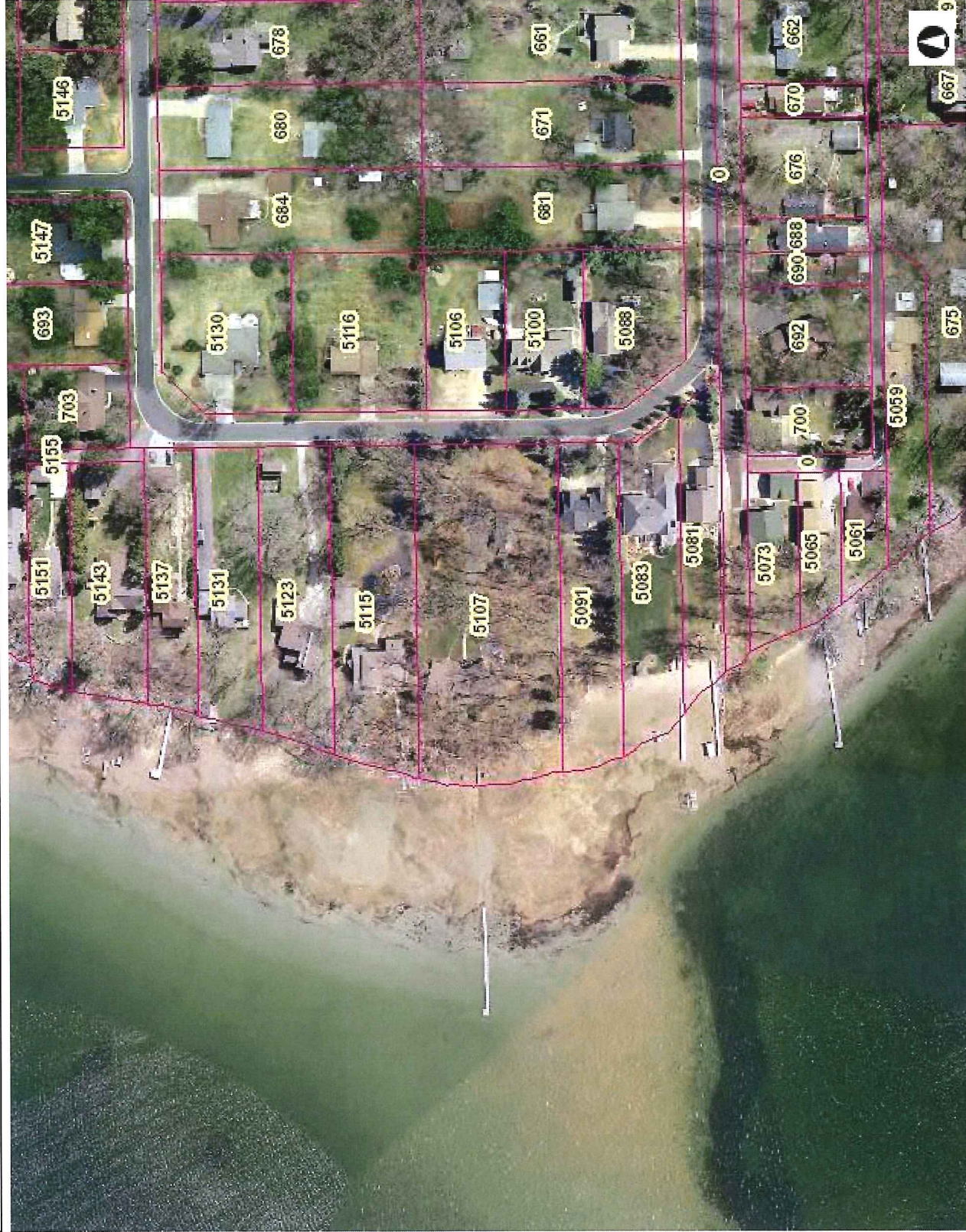
-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcel Boundaries

## Notes





-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcel Boundaries



348.0 0 174.00 348.0 Feet

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THIS MAP IS NOT TO BE USED FOR NAVIGATION





Nicole Hill <NHill@shoreviewmn.gov>

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## Extension

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Kevin Ousdigian <kevin.ousdigian@gmail.com>  
To: Nicole Hill <NHill@shoreviewmn.gov>

Tue, Jan 7, 2014 at 9:30 AM

Niki

I hope you are surviving the cold. Only a 3 more days and we will see a 60 degree rise in temps over Monday without getting on a plane!

I'm writing to ask for an extension for the variance setback that was tabled at the Sept planning commission meeting. Since we just decided we are building I'm pretty sure it will be at least a couple of months before we are ready to submit the application for the residential design review and minor variance request.

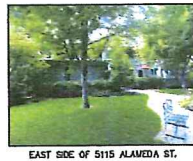
I know the planning commission meets the 4th Tuesday of the month. Are the applications due the last Monday of the prior month or what day are they due again?

Thanks,  
Kevin

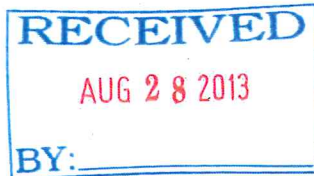


# KEMPER & ASSOCIATES INC. PROFESSIONAL LAND SURVEYORS

721 OLD HIGHWAY 8 N.W.  
NEW BRITTON, MINNESOTA 55112  
651-631-0351  
FAX 651-631-8805  
email: kemper@pro-mn.net  
www.kemperassociates.com



EAST SIDE OF 5115 ALAMEDA ST.



## TURTLE LAKE

ORDINARY HIGH WATER LEVEL=892.4  
HIGHEST RECORDED ELEV.=893.1 (05/31/1942)  
LOWEST RECORDED ELEV.=888.7 (08/14/1925)  
(NLS 1912 ELEVATIONS AS PER MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES  
LAKE FINDER WEBSITE)  
100-YEAR FLOOD ELEVATION=893 (NAVD 88)  
(AS PER FEMA MAP)

FLOODPLAIN NOTE:  
SUBJECT PROPERTY LIES WITHIN FLOOD ZONE "X"  
(AREAS DETERMINED TO BE OUTSIDE THE 0.2%  
ANNUAL CHANCE FLOODPLAIN) AND "AE"  
(SPECIAL FLOOD HAZARD AREAS SUBJECT TO  
INUNDATION BY THE 1% ANNUAL CHANCE  
FLOOD. BASE FLOOD ELEVATIONS DETERMINED)  
ACCORDING TO THE FEDERAL EMERGENCY  
MANAGEMENT AGENCY FLOOD INSURANCE RATE  
MAP COMMUNITY PANEL NUMBER 271230-0010 Q,  
DATED JUNE 4, 2010, RAMSEY COUNTY, MINNESOTA.  
THE BASE FLOOD ELEVATION SHOWN FOR TURTLE  
LAKE IS 893.

## ZONING REQUIREMENTS

ZONED R1 - DETACHED RESIDENTIAL DISTRICT  
SUBJECT TO SHORELAND MANAGEMENT  
SUBJECT TO FLOOD PLAN MANAGEMENT  
MINIMUM LOT AREA - 10,000 SQ. FT. (R1)  
- 15,000 SQ. FT. (S)  
MINIMUM LOT WIDTH - 75 FEET (R1)  
- 100 FEET (S)  
MINIMUM LOT DEPTH - 125 FEET (R1)  
MAXIMUM IMPERVIOUS SURFACE COVERAGE - 25% (S)  
MAXIMUM HEIGHT - 35 FEET  
BUILDING SETBACKS:  
FRONT - 25 FEET MINIMUM/40 FEET MAXIMUM  
SIDE - 10 FEET  
ORDINARY HIGH WATER - 50 FEET  
ACCESSORY STRUCTURES:  
DETACHED ACCESSORY STRUCTURE AREA  
SHALL NOT EXCEED 75% OF THE FOUNDATION  
AREA OF THE DWELLING UNIT OR 750 SQ. FT.,  
WHICHEVER IS MORE RESTRICTIVE.  
THE COMBINED AREA OF ALL ACCESSORY  
STRUCTURES SHALL NOT EXCEED BOX OF  
THE DWELLING UNIT FOUNDATION AREA OR  
1,500 SQ. FT., WHICHEVER IS MORE  
RESTRICTIVE.  
SIDE SETBACK - 5 FEET  
MAXIMUM HEIGHT - 18 FEET AS MEASURED  
FROM THE HIGHEST ROOF  
PEAK TO THE LOWEST  
FINISHED GRADE. HOWEVER,  
IN NO CASE SHALL THE  
HEIGHT OF THE ACCESSORY  
STRUCTURE EXCEED THE  
HEIGHT OF THE DWELLING  
UNIT. HEIGHT OF SIDEWALLS  
CANNOT EXCEED 10 FEET  
MAXIMUM NUMBER OF DETACHED ACCESSORY  
STRUCTURES - 2  
(AS PER CITY OF SHOREVIEW ZONING CODE)



VIEW OF TURTLE LAKE FROM 5107 ALAMEDA STREET



EAST SIDE OF 5091 ALAMEDA ST.

# CERTIFICATE OF SURVEY

13178 (13176C.040) D.B. TODD HOLEN

# PROPOSED MINOR SUBDIVISION OF 5107 ALAMEDA STREET CITY OF SHOREVIEW, RAMSEY COUNTY, MINNESOTA

## PROPOSED SETBACK CALCULATIONS

STREET SETBACK:  
5107 ALAMEDA ST. DECK = 255.47 FEET  
5091 ALAMEDA ST. GARAGE = 56.11 FEET  
AVERAGE = 155.79 FEET - 10 FEET = 145.79 FEET  
ORDINARY HIGH WATER SETBACKS:  
5107 ALAMEDA ST. DECK = 72.0 FEET  
5091 ALAMEDA ST. DECK = 183.2 FEET  
AVERAGE = 127.6 FEET - 10 FEET = 117.6 FEET

## AREA SUMMARY

EXISTING PROPERTY = 563,494 SQ. FT. OR ±1.46 ACRES  
(TO ORDINARY HIGH WATER LEVEL)  
PROPOSED PARCEL A = ±35,787 SQ. FT. OR ±0.82 ACRES  
(TO ORDINARY HIGH WATER LEVEL)  
PROPOSED PARCEL B = ±27,707 SQ. FT. OR ±0.64 ACRES  
(TO ORDINARY HIGH WATER LEVEL)

SCALE IN FEET  
0 10 20

BASE FOR BEARINGS:  
RAMSEY COUNTY  
COORDINATE SYSTEM  
(NAD 83, 1998)

(NAD 83, 1998)  
MEASUREMENTS UTILIZING  
MINNESOTA DEPARTMENT  
OF TRANSPORTATION  
VRS NETWORK

BASE FOR ELEVATION:  
TOP HUT OF FIRE HYDRANT  
AT MAIN BIRCH LANE SOUTH  
ELEVATION=825.62  
(AS PER CITY OF SHOREVIEW  
ENGINEERING DEPARTMENT,  
FOR 2002 SURVEY)

CONTOUR INTERVAL=1 FOOT



EAST SIDE OF 5107 ALAMEDA STREET

## EXISTING LEGAL DESCRIPTION

QUIT CLAIM DEED DOC. NO. 3092936

The North 155.68 feet of Lot Six (6), except the Easterly 902 feet thereof, Birch Lane, Ramsey County, Minn., including full riparian rights to Turtle Lake; also the South 16.5 feet of Lot Five (5), Birch Lane, Ramsey County, Minn., except the Easterly 902 feet thereof, including full riparian rights to Turtle Lake, according to the plat thereof on file and of record in the office of the Register of Deeds in and for said county, subject to restrictions, reservations, and easements of record and utility easements and public highways.

## PROPOSED LEGAL DESCRIPTIONS

### PARCEL A

The North 155.68 feet of Lot Six (6), except the South 78.69 feet thereof, and except the Easterly 902 feet thereof, Birch Lane, Ramsey County, Minn., including full riparian rights to Turtle Lake; also the South 16.5 feet of Lot Five (5), Birch Lane, Ramsey County, Minn., except the Easterly 902 feet thereof, including full riparian rights to Turtle Lake, according to the plat thereof on file and of record in the office of the Register of Deeds in and for said county, subject to restrictions, reservations, and easements of record and utility easements and public highways.

### PARCEL B

The South 78.69 feet of the North 155.68 feet of Lot Six (6), except the Easterly 902 feet thereof, Birch Lane, Ramsey County, Minn., including full riparian rights to Turtle Lake; also the South 16.5 feet of Lot Five (5), Birch Lane, Ramsey County, Minn., except the Easterly 902 feet thereof, including full riparian rights to Turtle Lake, according to the plat thereof on file and of record in the office of the Register of Deeds in and for said county, subject to restrictions, reservations, and easements of record and utility easements and public highways.

## LEGEND

- 910— EXISTING CONTOUR LINE
- MH ○ MANHOLE
- SSHH ○ SANITARY SEWER MANHOLE
- CB ○ CATCH BASIN
- LP ○ LAMP POST
- PH ○ FIRE HYDRANT
- ET ○ ELECTRIC TRANSFORMER
- TV ○ CABLE TV RISER
- EM ○ ELECTRIC METER
- AC ○ AIR CONDITIONER
- S/H ○ SPLIT
- DOWNTOWN SET SURVEY MONUMENT MARKED "KEMPER 18407"

NOTE: ONLY "LANDMARK" TREES AS DEFINED IN THE CITY OF SHOREVIEW CODE ARE SHOWN HEREON. SMALLER TREES ON THE SUBJECT PROPERTY ARE NOT SHOWN.

PREPARED FOR:  
KEVIN OUSIDIGIAN  
4481 HARBOR PLACE DRIVE  
SHOREVIEW, MINNESOTA 55126  
763-218-8154



CERTIFICATION  
I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Mark D. Kemper  
MARK D. KEMPER, PLS 18407  
DATED THIS 28th DAY OF August, 2013



WEST (LAKE) SIDE OF 5107 ALAMEDA STREET



GARAGE AT 5107 ALAMEDA STREET



## MOTION

**MOVED BY COUNCIL MEMBER:** Quigley

**SECONDED BY COUNCIL MEMBER:** Wickstrom

To approve the Minor Subdivision, including the Development Agreements, submitted by Sara and Kevin Ousdigian, 5107 Alameda Street, to divide the property into two parcels for single-family residential development. Approval is subject to the following conditions:

1. The minor subdivision shall be in accordance with the plans submitted.
2. For Parcel B, a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City endorses the deed to create Parcel B. The fee will be 4% of the fair market value of the property.
3. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director, including a conveyance expanding the existing sanitary easement to fully encompass the City's sewer interest. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. The applicants shall enter into a Subdivision Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording. A Development Agreement will also be required for the construction of a new home on Parcel B.
5. Municipal water and sanitary sewer service shall be provided to Parcel B. Payment in lieu of assessments for City water availability to the new lot in the amount of \$4,325 for the Water Unit and \$1,209 for the street unit. The cost of connection and SAC fees, together with permit charges, will be due with the building permit.
6. An escrow for the work to connect to the existing city sewer will be required in the amount of \$1,000.
7. Driveways and all other work within the Alameda Street right-of-way are subject to the permitting authority of the City of Shoreview.
8. The existing screened porch shall be modified to meet setback requirements prior to the City endorsing the Deed for Parcel B.
9. The garage shall be removed prior to the City endorsing the Deed for Parcel B or a financial surety submitted to the City to ensure removal.
10. A tree protection plan shall be submitted prior to issuance of a building permit (including the demolition permit). The approved plan shall be implemented prior to the commencement of work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.
11. An erosion control plan shall be submitted with the building permit application for each parcel and implemented during the construction of the new residence.
12. A final site-grading and drainage plan shall be submitted and approved by the City Engineer prior to issuance of a building permit.

13. A Mitigation Affidavit is required for both parcels. For Parcel A, this Affidavit shall be executed prior to the City's release of the deed for recording. For Parcel B, this Affidavit shall be required with the Residential Design Review process.
14. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

Said approval is based on the following findings of fact:

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
2. The proposed lots conform to the adopted City standards, with Resolution 13-85, adopted by the Planning Commission approving the reduced lot widths.
3. Municipal water and sanitary sewer service are available for each proposed parcel.

**ROLL CALL:**    **AYES**   5      **NAYS**           

Johnson	<u>      X      </u>	<u>                  </u>
Quigley	<u>      X      </u>	<u>                  </u>
Wickstrom	<u>      X      </u>	<u>                  </u>
Withhart	<u>      X      </u>	<u>                  </u>
Martin	<u>      X      </u>	<u>                  </u>

***Regular City Council Meeting***

October 7, 2013

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD SEPTEMBER 24, 2013**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present: Chair Solomonson, Commissioners Schumer, Proud, Thompson, and Wenner.

And the following members were absent: Commissioners Ferrington and McCool

Member Schumer introduced the following resolution and moved its adoption.

**RESOLUTION NO. 13-85 FOR A VARIANCE TO REDUCE THE LOT WIDTH FOR A  
MINOR SUBDIVISION**

WHEREAS, Sara and Kevin Ousdigian submitted a variance application for the following described property:

The North 155.68 feet of Lot Six (6), except the Easterly 902 feet thereof, Brich Lane, Ramsey County, Minnesota, including full riparian rights to Turtle Lake; also the South 16.5 feet of Lot Five (5) Birch Lane, Ramsey County, Minn., except the Easterly 902 feet thereof, including full riparian rights to Turtle Lake, according to the plat thereof on file and of record in the office of the Register of Deeds in and for said county, subject to restrictions, reservations, and easements of record and utility easements and public highways.

*(Commonly known as 5107 Alameda Street)*

WHEREAS, the Development Regulations require a minimum 100-foot lot width; and

WHEREAS, the applicant has requested a variance to reduce this requirement to 93.49-feet for Parcel A and 79.69 for Parcel B; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests.

WHEREAS, on September 24, 2013 the Shoreview Planning Commission made the following findings of fact:

1. *The property in question cannot be put to a reasonable use under the conditions allowed by the Development Ordinance.* The subdivision is a reasonable use of the property as both of the proposed lots comply with and exceed the minimum standards of the Shoreland District, except for the widths of the parcels. With lot areas over the minimum 15,000 square feet, Parcel A is able to maintain the current single family residence and Parcel B has adequate area for a single family residence.
2. *The hardship is created by circumstances unique to the property and was not created by the landowner.* The unique circumstance is that no subdivision of the large 1.5 acre property is possible unless a variance is approved because of the lot width requirements. Staff believes the proposed subdivision allows the applicant to develop the property with a higher intensity use that recognizes and retains the existing development pattern, relationship to the adjacent properties, and character of the neighborhood.
3. *The variance will not alter the essential character of the neighborhood.* In this neighborhood, other riparian parcels have a similar development pattern, with lot sizes ranging from 50 to 100 feet, with an average of 66.3 feet. The two parcels created by this subdivision will result in lot widths greater than the average for the neighborhood and should not alter the character of the neighborhood.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 5107 Alameda Street, be approved, subject to the following conditions:

1. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
2. This approval is subject to approval of the Minor Subdivision application by the City Council.
3. This approval is subject to a 5-day appeal period.

The motion was duly seconded by Member Wenner and upon a vote being taken thereon, the following voted in favor thereof: Schumer, Wenner, Solomonson, and Thompson

And the following voted against the same: Proud

Adopted this 24<sup>th</sup> day of September, 2013



Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

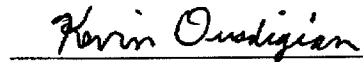


Kathleen Castle, City Planner

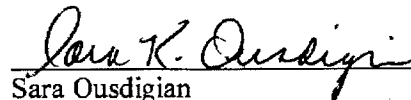
SEAL



ACCEPTANCE OF CONDITIONS:



Kevin Ousdigian



Sara Ousdigian

STATE OF MINNESOTA)

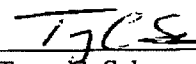
)  
COUNTY OF RAMSEY )

)  
CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 24th day of September, 2013 with the original thereof on file in my office and the same is a full, true and complete transcript there from insofar as the same relates to adopting Resolution 13-85

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 24th day of September, 2013.



  
\_\_\_\_\_  
Terry C. Schwerm  
City Manager



**TO:** Planning Commission

**FROM:** Kathleen Castle, City Planner

**DATE:** January 24, 2014

**SUBJECT:** File No. 2512-14-02, Variance - Michael Morse, 1648 Lois Drive

## **INTRODUCTION**

The City received another variance application from Michael Morse, 1648 Lois Drive, to retain and finish the partially-constructed detached accessory structure on his property. In 2011 and 2012, the Planning Commission heard similar requests and was unable to make the necessary findings to approve the variances requested. The following variances are required:

1. To exceed the maximum area permitted (75% of the dwelling unit foundation area). In this case, the area of the detached accessory structure is 1,100 square feet exceeding the maximum of 576 square feet permitted.
2. To exceed the combined area of all accessory structures on the property (90% of the dwelling unit foundation). The combined area of all accessory structures is 1,100 square feet exceeding the 691 square feet permitted.
3. To reduce the required 5-foot setback from a side property line to 2.3 feet.

Please see the attached application submittal, including the development plans. The application was complete as of January 10, 2014.

## **BACKGROUND**

The City became aware of the detached accessory structure being constructed on the property in July of 2011. A stop work order was issued on July 8, 2011 and the property owner, Michael Morse was notified of the City's requirements regarding building and land use permits. Upon further review, the City determined that the structure did not comply with the City's Development regulations for detached accessory structures on property zoned R-1, Detached Residential. In response, Mr. Morse submitted a variance application requesting variances from the City standards pertaining to the area, height and side yard structure setback requirements.

The Planning Commission considered similar variances in July/August, 2011 and December 2012 and denied the requests based on the finding practical difficulty was not present. Commission members expressed concerns regarding the area and height of the structure and setback from the western side property line. Mr. Morse appealed these decisions to the City Council who held hearings and upheld the Planning Commission's decision in both cases, thereby denying the appeals based on a determination that practical difficulty was not present.

Mr. Morse was also informed that the property needed to be brought into compliance with the City's Development Code by November 1, 2011. The structure remains and has been modified, without obtaining any of the required permits, through the removal of the roof trusses, placement of tarps over the structure, and the installation of a garage door. The City Council held a hearing on December 19, 2011 and concluded that the structure represents a public nuisance and ordered an abatement.

The City then filed a complaint with the District Court seeking an order requiring Mr. Morse to remove the garage by a date certain or permit the City to remove the garage and assess the cost of removal to the property. The District Court ruled in favor of the City, however, this decision has been appealed by Mr. Morse. This case has not yet been reviewed by the Appellate Court.

The structure remains on the property in violation of the City's ordinances. Mr. Morse hopes to remedy these violations by receiving the necessary variance approvals to retain and finish the structure. In accordance with the Development Code, Mr. Morse can submit a same or similar application after 6 months from the date of denial.

### **PROJECT DESCRIPTION**

The property is located on Lois Drive, east of Snelling Avenue. It has a width of 75 feet, a depth of 135 feet and an area of 10,125 square feet. Along the eastern boundary is a 5-foot drainage easement that is developed with a public drainage ditch. There is a one-story single family home on the property that has a foundation area of 768 square feet. The home has a height of 15 feet as measured from ground grade to peak. A detached garage approximately 360 square feet in size was also located on the property but demolished in June, 2011 without a building permit. Other improvements include a driveway and deck.

The applicant has stated the detached garage is constructed in the same location as the previous garage. The garage has an overall area of 1,100 square feet, a width of 22 feet and a depth of 50 feet. A survey submitted in 2011 identified that the structure is setback 2.3 feet from the side property line and 11.7 feet from the rear property line. The overall height of the structure is proposed at 14'11" and complies with the maximum 15-foot height permitted. The 9-foot height of the side wall complies with the maximum 10-foot height permitted.

### **DEVELOPMENT ORDINANCE REQUIREMENTS**

The property is located in the R1, Detached Residential District. In this District, the principal structure must be setback a minimum of 30 feet from the front lot line. A minimum side yard setback of 10-feet is required for living area and 5-feet for accessory structures and driveways/parking areas. Accessory structures must also maintain a minimum 10-foot setback from a rear property line. Impervious surface coverage cannot exceed 40%

On parcels less than 1 acre, the maximum area permitted for a detached garage is 75% of the dwelling unit foundation area or 750 square feet whichever is more restrictive. The combined

area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive. The maximum height permitted for detached accessory structures is 18 feet as measured from the roof peak to the lowest finished grade; however, in no case shall the height of the structure exceed the height of the dwelling unit. In addition, sidewalls cannot exceed 10 feet and interior storage areas above the main floor cannot exceed an interior height of 6 feet.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

### **Variance Criteria**

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.
2. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the property owner.
3. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood

### **APPLICANT'S STATEMENT OF JUSTIFICATION**

The applicant identifies that practical difficulty is present. The proposed structure and variance requests comply with the Section 201, Purpose and Intent of the Development Code and supports the policies of the Comprehensive Plan. Economic considerations should also support the variances needed to complete the structure.

Practical difficulties are also present. The proposed garage will be used in a reasonable manner. The existing home is small and additional space is needed to store personal items such as recreational vehicles and lawn equipment. Unique circumstances relate to the size of the home, an existing drainage ditch on the property, location of the demolished garage and driveway. The variance will not alter the character of the neighborhood since visibility from the street is limited and there are other large garages nearby or that have been permitted with variances under similar circumstances.

Please refer to the attached statement and Exhibits.

### **STAFF REVIEW**

The staff reviewed the request and cannot make affirmative findings for practical difficulty. The proposed garage does not uphold the spirit and intent of the code due to the size in relation to the home and property, the proximity to the side property line and visual impact on nearby properties.

- 1. Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The City's Development Code permits accessory structures on residential properties provided certain requirements are met. The Development Code places limitations on the height and size of these structures to provide property owners to use their property in a reasonable manner. In this case, the Development Code permits a 576 square foot accessory structure (24' x 24') on the property, which is large enough for two vehicles and other personal property. A second accessory structure up to 115 square feet may also be allowed for additional storage. Therefore, the total accessory structure square footage permitted is 691 square feet.

These standards were adopted by the City to establish the dwelling unit as the dominant and principal use and that accessory structures remain secondary or subordinate. Regulating the size, height and location ensures that accessory structures remain a secondary use. The City's standards do allow the applicant to use the property in a reasonable manner since a detached two-car garage and storage shed are permitted by the Development Code and are proportional to the size of the home and property.

Staff remains concerned about the large size of the proposed structure, 1,100 square foot, and the 2.3-foot setback from the side property line. The proposed size of the garage is not reasonable for this property due to the lot size, size of the home and proximity to the side property line and results in an appearance that the property is over capacity or overbuilt. When looking at the rear yard, the structure occupies about 25% of the yard area. While neighboring properties also have detached garages located in the rear yard, they tend to occupy less yard space due to the smaller structure size. The proposed structure affects the sense of open space on the applicant's property as well as neighboring properties. At the proposed size, the detached garage is not subordinate to the home. The area of the garage is 140% of the dwelling unit foundation area and the detached garage becomes the dominant feature and use on the property

- 2. Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Staff agrees that the 768 square foot home is small for today's living standards, however, this is not a unique circumstance that warrants the variances requested. There are other homes in the neighborhood that are of a similar size. The Development Code does permit a 576 square foot garage on the property which is reasonable for a home of this size. The spirit and intent of the ordinance is to maintain the residential character of the property by limiting the size of accessory structures so the dwelling unit remains the principal use and dominant feature of the property.

Unique circumstances which warrant the 2.3-foot setback from the side property line do not appear to be present. The applicant has indicated that the structure is placed at the same location as the previous garage. This cannot be verified since the older garage has been demolished. City records indicate this garage was setback 6-feet from the side property line. While, older aerials of the property indicate that the structure may have been located a few feet closer to the side property line, a new foundation was constructed for this building.

The drainage easement on the eastern side of the property not a unique characteristic nor does it create the need to shift the building further to the west. The garage could be setback 5-feet from the side property line without interfering with the home and other uses on the property.

*3. Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The neighborhood is characterized with smaller one and one and one-half story homes that are developed with detached garages. Some of the homes remain the original size as when constructed while others have been expanded. In some instances, there are properties that do have detached accessory structures that exceed the current area and/or height standards. These structures are considered non-conforming and were likely built when different accessory structure standards were in effect.

While staff understands that there are other large detached garages in the area, concerns remain regarding the mass of the structure and the impact on the neighborhood and adjoining properties. Accessory structures are limited in size based on the size of the property and home to maintain the residential character of properties and the neighborhood. The residential character is compromised when detached accessory structures larger than the residential homes are built on standard sized residential lots.

The 2.3-foot setback from the side property line is detrimental to the neighboring property because of the visual impact, drainage – stormwater runoff and potential for encroachment resulting from building construction and maintenance. The building wall along this property line is 50 feet long and contains no building openings. Generally, when structures encroach upon the required structure setbacks, it has been the City's practice to require mitigation of the visual impact through landscaping and/or building design. Landscaping is not a feasible option due to

the lack of space. In addition, building openings are not permitted along the western building wall because it needs to have a one-hour fire resistance rating.

The submittal packet includes Exhibits which identify other larger detached accessory structures in area and others throughout the City that have been permitted through the conditional use permit or variance process. This information is not relevant to the findings needed to determine whether or not practical difficulty is present in the applicant's case.

### **PUBLIC COMMENT**

Property owners within 150 feet were notified of this hearing. The few telephone calls have been received expressing opposition and questioning why the structure remains, the City's enforcement of codes and Court action. One written comment in support was also received.

### **STAFF RECOMMENDATION**

The request has been reviewed in accordance with the Development Code standards and findings required for practical difficulty. Practical difficulty is not present as the required findings cannot be made. The proposed variances compromise the spirit and intent of the regulations, therefore, Staff is recommending the Commission deny the request based on the following findings:

1. The request does not comply with the spirit and intent of the City's Development Code and Comprehensive Plan. The proposed size of the detached accessory structure is 40% larger than the foundation area of the dwelling and would cause it to become the dominant structure and use on the property. The size limitations imposed on accessory structures have been enacted so these types of structures remain subordinate to the principal residential dwelling unit. Furthermore, the intent of the minimum 5-foot setback is to retain open space between properties and provide enough area for the structure's maintenance. The 2.3-foot setback proposed results in a loss of open space and is not adequate to maintain the structure.
2. Reasonable Manner. The applicant can use his property in a reasonable manner as permitted by the Development Code. In accordance with the City's regulations a two-car 576 square foot detached accessory structure and a storage shed could be constructed on the property at the required 5-foot setback.
3. Unique Circumstances. Unique circumstances are not present. The necessity for the variances is due to the applicant's personal storage needs and desire to store personal items on-site. Although the home has a small foundation area for today's living standards, the Development Code does provide the applicant with options to construct an accessory structure(s) on the property that maintain the spirit and intent of the ordinance. The existing drainage easement on the east side of the property is not a unique circumstance and does not impede on the 5-foot side yard setback required from the west side lot line. No obstructions are present that create the need for the requested variance from the side property line. The structure can be setback 5-feet from the side lot line in accordance with the Development Code.

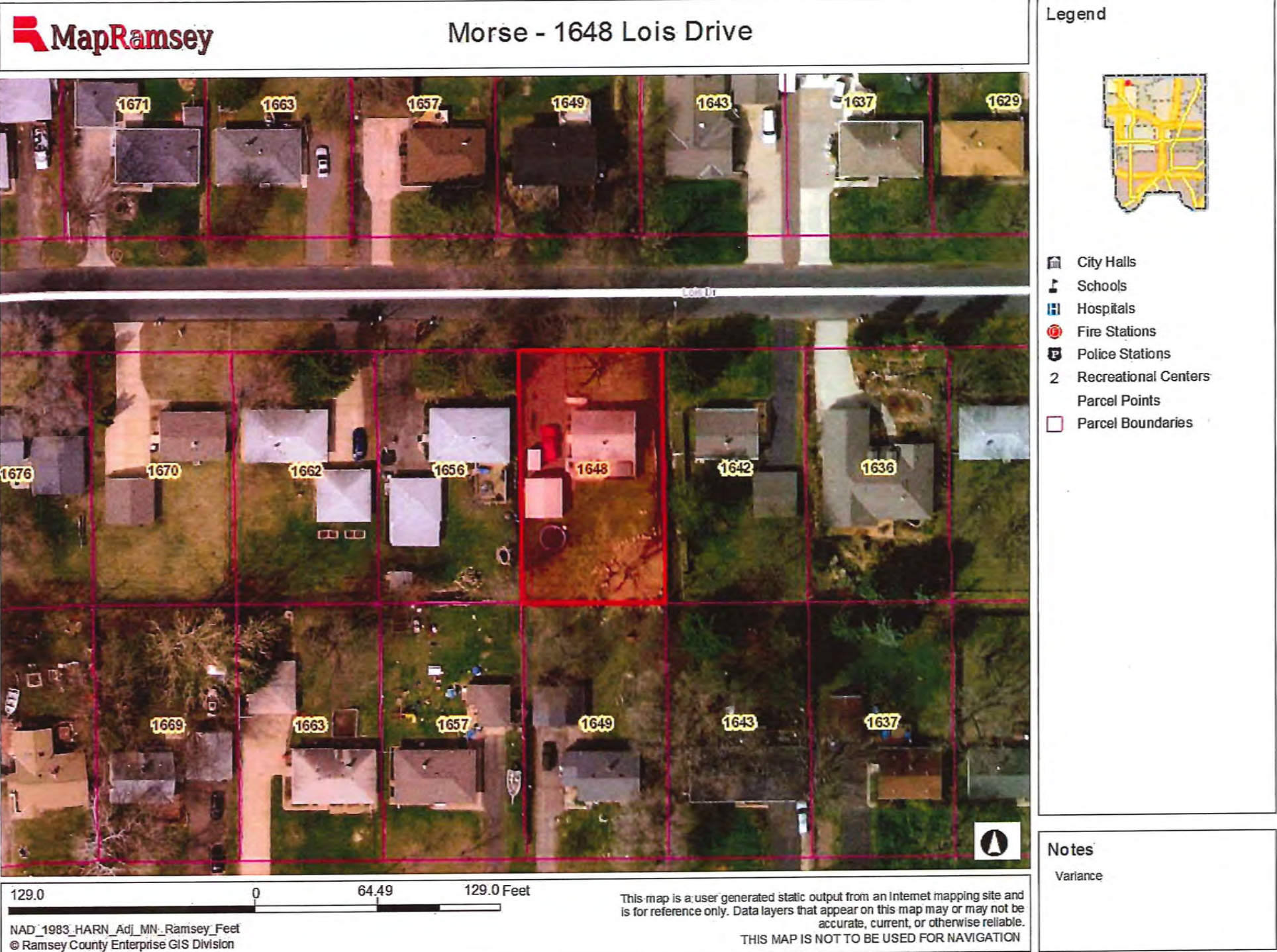
4. Character of Neighborhood. The neighborhood is characterized with smaller one and one and one-half story homes that are developed with detached garages. While some of these garages may exceed the current area and/or height standards, these structures are considered non-conforming. The proposed size and mass of the structure and setback from the western side lot line does negatively impact the character of the neighborhood and adjoining properties. The residential character of the property is compromised by a structure that exceeds the foundation size of the home. Visual mitigation is not feasible due to the encroachment on the minimum 5-foot side setback required and limited space for landscaping, stormwater management and building maintenance.

Attachments:

- 1) Aerial Location Map
- 2) Applicant's Statement and Submitted Exhibits and Plans
- 3) Request for Comments
- 4) Motion

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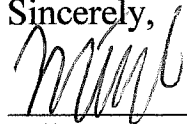
December 30th, 2013

Planning Commission:

I believe I have enclosed what is needed to apply for a building permit and variance application. Please notify me via email at [crazymike01@hotmail.com](mailto:crazymike01@hotmail.com) immediately if anything is missing or anything else is required. I would like to ensure this application is reviewed in the January Planning Commission Meeting.

I have enclosed 3 drawings of the structure, if more drawings are required or site plan is needed, I believe City Staff has them from a previous application submitted on file, they should be sufficient to satisfy the criteria for a completed application.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mike Morse', written over a horizontal line.

Mike Morse

A handwritten signature in dark ink, appearing to read 'Mike Morse', written over a horizontal line.

## **STATEMENT OF JUSTIFICATION**

### **1. Introduction.**

Michael Morse is a Shoreview property owner. Mr. Morse owns property located at 1648 Lois Drive, Shoreview, MN 55126, where Mr. Morse lives with his fiancé and their two children. Mr. Morse is submitting this variance application to obtain approval to finish construction and maintain a new garage on his property. The garage is currently unfinished due to a stop-work-order which the City has issued pertaining to the garage in 2011, which is 22 ft x 50 ft, with a proposed height of 14'11".

As explained below, Mr. Morse's variance request complies with the purpose and intent provisions of Section 201.101, and the City's comprehensive plan. Furthermore, Mr. Morse has "practical difficulties" in complying with the provisions of the Shoreview development regulations. Finally, Mr. Morse's economic difficulties weigh in favor of granting the variance in this case. For these reasons, Mr. Morse respectfully requests that his variance be granted and that he be permitted to finish and maintain the garage on his property.

### **2. The Variance Request Complies with the Purpose and Intent Provisions of Section 201.010.**

#### **a. 201.010(A): To maintain high quality of life by promoting investment and reinvestment.**

Mr. Morse's garage complies with section 201.010(A). The newly constructed garage is an attractive structure built with high-quality materials. It will increase the value of Mr. Morse's property, and, if the property is to be sold in the future, the new garage will increase the chances of sale. Finally, the garage will allow Mr. Morse's family to store their property inside, rather than outside, and will contribute to keeping a clean look in the neighborhood. Thus, the new garage will promote a high quality of life as well as investment and reinvestment.

#### **b. 201.010(B): To provide opportunities for reuse, reinvestment and redevelopment that increases the City's employment and service base.**

Mr. Morse's garage complies with section 201.010(B). The new garage will increase the chances that Mr. Morse's property will be resold and used by the new owner as a primary residence. Mr. Morse's house is very small and has very little storage capacity. The new garage resolves this problem by allowing extra storage space. The

new garage therefore increases the possibility that the home will be used as a primary residence in the future and increases the chances of reinvestment.

- c. **201.010(C): To preserve and protect the City's natural resources through standards that promote sustainable land use and development.**

Mr. Morse's garage complies with section 201.010(C). The new garage fits in very well with the natural resources in the area and did not require the destruction of any natural resources. Furthermore, Mr. Morse's property has a drainage ditch running through it, and the garage does not interfere with the accessibility to the ditch. Finally, the garage is towards the back of Mr. Morse's property and only partially visible from the street. In fact, when viewed from the street, Mr. Morse's garage looks no bigger than a standard two-car garage. Finally, the garage was professionally engineered and built to ensure that it will not cause any environmental concerns. Thus, the garage preserves the City's natural resources and promotes sustainable land use and development.

- d. **201.010(D): To stabilize and improve existing land uses, commercial and business centers, neighborhoods, and property values by minimizing conflicts, harmonious influences and harmful intrusion.**

Mr. Morse's garage complies with section 201.010(D). The new garage improves Mr. Morse's property in several ways. First, it provides much-needed storage space for today's growing families and their storage needs. Second, the garage is an attractive structure which fits in aesthetically with Mr. Morse's property and the neighborhood. Third, even though the garage is oversized, it has the appearance of a standard two-car garage from the street. Fourth, the garage improves and provides better opportunities for Mr. Morse's existing property. In addition, the new garage does not negatively affect Mr. Morse's neighbors and does not interfere with the neighbors' use/enjoyment of their property. Finally, the new garage significantly improves the value of Mr. Morse's property, which will contribute to the City's income through property taxes. For all of these reasons, the new garage complies with section 201.010(D).

- e. **201.010(E): To ensure that public and private lands ultimately are used for the purposes, which are most appropriate and most beneficial for the City as a whole.**

Mr. Morse's garage complies with section 201.010(E). Mr. Morse's new garage will allow Mr. Morse and his family to store their regular and recreational vehicles inside

and will allow for better use of the backyard for recreation. Furthermore, due to the small size of the house, there is insufficient storage space inside the residence. The garage will allow Mr. Morse and his family additional storage space, which is required for today's growing families. For these reasons, the garage will improve the use of the Mr. Morse's private land and will be beneficial to the City as a whole.

- f. 201.010(F): To balance the demand for support services with the ability of the City to efficiently utilize and/or expand the existing utilities, streets, etc.**

Mr. Morse's garage complies with section 201.010(F). The new garage has no negative impact on the city's ability to efficiently utilize and/or expand the existing utilities or streets. Furthermore, Mr. Morse's property has a drainage ditch running through it – the garage is as far away as possible from the ditch and does not interfere with the ditch itself or the city's access or use of the ditch.

- g. 201.010(G): N/A.**

- h. 201.010(H): To protect all districts from excessive noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences.**

Mr. Morse's garage complies with section 201.010(H). The new was professionally designed, engineered, and built. The new garage will allow Mr. Morse and his family sufficient room to store all of their vehicles and property. In addition, the garage, when finished, will be an attractive structure that will fit in with the property and the neighborhood as a whole. Thus, the new garage complies with section 201.010(H).

- i. 201.010(I): N/A.**

- j. 201.010(J): To stage development and redevelopment in a manner that coincides with the availability of public services.**

Mr. Morse's garage complies with section 201.010(I) because it has no negative impact on the availability or access to public services.

- k. 201.010(K): N/A.**

1. **201.010(L): To provide for adequate light, pure air, safety, from fire and other danger.**

Mr. Morse's garage complies with section 201.010(L). Mr. Morse's new garage was professionally designed, engineered, and built. The garage is a safe structure which will provide adequate and appropriate storage for Mr. Morse's vehicles and property. Furthermore, the garage will allow Mr. Morse's family to store some of their seasonal property in the garage, which will reduce excessive storage and clutter inside the residence. Thus, the new garage will improve safety and diminish fire hazards both on Mr. Morse's property and in the neighborhood as a whole.

3. **The Variance Request Complies with the Policies of the City's Comprehensive Plan.**

- a. **Vision Statement: The Comprehensive Plan should promote community stewardship . . . [which] involves . . . provid[ing] a better quality of life for present and future citizens. . . . Where management goals conflict, the Comprehensive Plan should seek to balance community, environmental, and economic needs. (Comprehensive Plain, Chapter 2.)**

Mr. Morse's garage meets the vision statement of Shoreview's Comprehensive Plan. Mr. Morse's garage will provide for better quality of life for Mr. Morse and his growing family. Furthermore, when Mr. Morse sells his house in the future, the garage will provide a better quality of life for the new owners. Finally, the garage will provide for better quality of life in the neighborhood because it is an attractive structure which will permit Mr. Morse and his family to store their seasonal belongings inside rather than outside of the house and will create a cleaner look in the neighborhood.

- b. **Housing: The intent of . . . [the Comprehensive Plan] is to clarify the City's role in protecting the quality of existing housing and neighborhoods, diversifying the cost and types of housing and responding to changing community needs. (Comprehensive Plan, Chapter 7.)**

Mr. Morse's garage meets the intent of the Comprehensive Plan as it pertains to housing. First, Mr. Morse's garage will improve and protect the quality of the existing residence by provide safe, attractive, and much-needed storage space. Second, the garage will increase the value of the property.

Third, Mr. Morse's garage, and especially the size of the garage, is a direct response to today's changing community needs. Mr. Morse's house was built in 1955. At that

time, families generally did not have multiple vehicles and did not possess much recreational vehicles or property. The needs of modern families have drastically changed since 1955, and families generally require more storage space for things such as additional vehicles, boats, pools, motorcycles, tools, landscaping equipment, and lawn furniture. Mr. Morse's garage was designed to respond to these changing needs of families and to provide additional storage space for property which does not fit into the house as a result of changing trends in possession of property by average families. This new trend of having small houses with larger garages can be easily seen by walking through Mr. Morse's neighborhood, which is filled with very small homes and large garages. For these reasons, the new garage is consistent with the intent of the City's Comprehensive Plan.

**4. There are Practical Difficulties in Complying with the Provisions of the Shoreview Development Regulations.**

**a. Reasonable Manner - Mr. Morse will use the garage in a reasonable manner not permitted by the city code.**

Mr. Morse's garage in this case will be used in a reasonable manner not permitted by the City code. As noted above, Mr. Morse lives on the property with his family and they have several vehicles as well as other property that will be stored in the garage. Mr. Morse's house is very small and his family needs additional room to store seasonal items and other property that is not often used by the family. The garage will be used to store these items. In addition, Mr. Morse has several recreational vehicles which will be stored in the garage as well. Finally, Mr. Morse other items such as a snow blower, lawnmower, shovels, tools, trampoline, toys, pool, lawn furniture, and other items that people often leave outside in the garage. For these reasons, the garage will be used in a reasonable manner and for the same purpose as all other people use their garages, which is to store vehicles and other seasonal property.

**b. Unique Circumstances – The property has unique circumstances not created by the property owner.**

**i. Mr. Morse has a very small house.**

Mr. Morse's house is unusually small, only approximately 770 square feet. The City code limits the garage size (square footage and height) based on the size of the house. Mr. Morse purchased his house as is and did not design or build it. The code violation pertaining to the size of the garage is a direct result of the small size of the house, a circumstance not created by Mr. Morse.

**ii. The drainage ditch.**

Mr. Morse's property has a drainage ditch running through it on the opposite side of the garage. The city has an easement for access to the ditch itself and the area immediately surrounding the ditch. Because of the ditch and the easement, Mr. Morse cannot use a significant area of his lot. The ditch and the easement were both in place when Mr. Morse bought the property. This is a unique circumstance which significantly affects the property and was not created by Mr. Morse.

**iii. The old garage did not comply with the current side-yard setback requirement and was too close to the property line.**

Mr. Morse had an old garage on his property prior to building the new garage. Mr. Morse's old garage was too close to the property line and in violation of the current side-yard setback requirement. Mr. Morse demolished the old garage and constructed side wall of the new garage in exactly the same area as the side wall of the old garage. Mr. Morse did not build the old garage and purchased the property with the garage and violation in place. Thus, the placement of the old garage is a unique circumstance which was not created by Mr. Morse.

**iv. The driveway.**

Mr. Morse currently has a driveway which was built previously to allow access into the old garage. The driveway was also centered with the old garage. If Mr. Morse has to move his current garage to comply with the side-yard setback requirements, the driveway will no longer be centered and will have to shift closer to Mr. Morse's house, which will cause Mr. Morse's property to lose a significant part of its front yard and back yard. Thus, the location of Mr. Morse's current driveway is a unique circumstance which was not created by Mr. Morse.

**c. Character of the Neighborhood – The variance will not alter the essential character of the neighborhood.**

**i. Character of Neighborhood.**

The character of Mr. Morse's neighborhood will not be affected by Mr. Morse's new garage. Mr. Morse encourages the Planning Commission and the City Council to visit Mr. Morse's neighborhood and observe and experience the character of Mr. Morse's neighborhood first-hand. A quick walk through Mr. Morse's neighborhood quickly reveals that Mr. Morse's neighbors are in the same position as Mr. Morse – they have small homes, a lot of property, and not enough space to store their property. Furthermore, Mr. Morse's neighborhood is filled with small homes that have large, and in some instances rather tall, garages. In addition to garages, many of Mr. Morse's neighbors have large sheds that they use to store their property. Some neighbors, instead of storing their property out-of-sight, simply leave things like boats and vehicles sitting around in their yards or out on the street. For these reasons, Mr. Morse's garage will not alter the character of Mr. Morse's neighborhood and, in fact, Mr. Morse's new garage fits right in with the existing character of the neighborhood.

**ii. The garage is barely visible from the street.**

Mr. Morse's garage is barely visible from the street. When walking by Mr. Morse's property, the garage looks like a standard two-car garage. The large size of Mr. Morse's garage is only visible from the backyard. Furthermore, the garage is a new and attractive structure and does not cause any structural or aesthetic problems. For these reasons, Mr. Morse's garage does not affect the character of the neighborhood.

**iii. Examples.**

1. The City of Shoreview has granted variances to other Shoreview residents under similar circumstances to this case.
  - a. 1601 Lois Dr.
    - i. This home is 912 square feet according to Ramsey County records. In 2001, a permit for a garage was issued, stating that the garage will be 924 square feet, 101.3% of the dwelling.



- ii. The city allowed the property owner to build a garage exceeding the size of the home.
- b. 1656 Lois Dr.
  - i. This home is 768 square feet according to Ramsey County records. If that is accurate the house and garage are the same size.
  - ii. Garage was built in 2000 without a permit.
  - iii. In 2013, a permit was issued after the fact; for a garage that is 768 square feet.
  - iv. House on city record is 928 sq. ft. with a garage of 768 sq. ft., 82.7% of the dwelling.
  - v. This property also has a shed that was built without a permit and is too close to the rear property line.
- c. **Exhibit 1**, p. 2-3: File No. 2289-07-30; 5405 Carlson Rd.
  - i. City approved a variance for a garage which exceeded square footage, maximum building height, and maximum interior storage height requirements.
  - ii. One reason given for approval of the variance is that the new garage would not have any significant impact on the neighborhood.
  - iii. Hardship was established based on the fact that a shed that was on the property would be removed.
- d. **Exhibit 2**, p. 13-15, **Exhibit 2A**, and **Exhibit 2B**: File No. 2470-12-33; 1000 Oakridge Ave.
  - i. City staff recommended for approval and city approved a conditional use permit for an illegal storage shed.
  - ii. The city became aware of the storage shed through an enforcement case and required the property owner to either remove the shed or apply for a CUP.
  - iii. City approved the CUP for the shed which exceeded the maximum floor area and maximum square footage area.
  - iv. The basis for the CUP was as follows: "The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance." (Ex. 2, p. 15.)
  - v. The city allowed a variance while an illegal primary structure still exists on the property. The city is not requiring the property owner to bring structure into

compliance. This property also has an illegal driveway that the city is aware of and not enforcing.

- vi. A 1993 permit, #505/93, states “Note-No further or existing accessory structures permitted on this property,” signed by the applicant and the building inspector.
- e. **Exhibit 3**, p. 2-4, and **Exhibit 3A**: File No. 2481-13-08; 5186 Lexington Ave.
  - i. City staff recommended for approval and city approved a variance for an illegal garage.
  - ii. The city approved a variance for the garage which violated the 5-foot side setback requirement.
  - iii. The property owner had an old garage on the property which also violated the side setback requirement. The city approved a variance permitting the property owner to demolish the old garage and construct a new garage in the same place as the old one, again violating the setback requirement.
  - iv. The city cites narrow lot width as a reasonable difficulty. Mr. Morse’s lot is also similarly narrow due to the drainage ditch which is on the property.
  - v. The city also states, “Shifting the garage to the north would interfere with the driveway and require additional driveway improvements thereby disturbing a larger area of the site.” By requiring Mr. Morse to move the garage, part of the existing driveway would also have to be moved and paved.
- f. **Exhibit 4A**: File No. 2510-13-37; 5555 Wood Duck Ct.
  - i. City staff recommended for approval a variance for an illegal shed.
  - ii. The illegal shed is in violation of the side setback requirement and exceeds the maximum accessory structure square footage allowed. The home owner also failed to obtain a permit prior to commencing construction because he was not aware that a permit was needed.
  - iii. The city discovered the violations after a citizen complaint and issued a stop-work order. The property owner then applied for a variance to complete the construction of the illegal shed. City staff recommends

approval, citing the following factors: property will be used in a reasonable manner, location of existing concrete slab and proximity of right of way are unique circumstances, and the character of the neighborhood will not be altered. (Ex. 4A, p. 4.)

- iv. The city approved a variance in this case after the property owner established that the concrete slab was in place prior to the property owner purchasing the home. The city is now stating that Mr. Morse cannot prove where the old garage was, but did not question the 555 Wood Duck Ct. property owner on the slab issue.
- g. **Exhibit 5**, p. 9-11, **Exhibit 5A**, and **Exhibit 5B**: File No. 2488-13-15; 166 Owasso Ln.
  - i. City staff recommended for approval and city approved a variance for an illegal garage.
  - ii. The illegal garage is in violation of the side setback and total accessory structure square footage requirements.
  - iii. The purpose of the new garage was to store a boat and trailer, which required extending the current (old) garage by 2 feet. (Ex. 5, p. 11.)
  - iv. One reason given for the approval is that the “current garage is . . . aligned with the asphalt from the existing driveway so relocating it within the setback would require repaving that portion of the driveway,” which the city cites as a unique circumstance. (Ex. 5, p. 11.)
  - v. Another reason for the approval is that the new garage would improve the character of the neighborhood. (Ex. 5, p. 11.)
  - vi. The city stated in that case, “Garages, especially in Minnesota, are needed for vehicle parking and storage of normal household equipment and supplies. Throughout Shoreview, they are a standard feature of detached single family residences.” These same principles should be applied equally to Mr. Morse.
  - vii. The city also states, “Rebuilding the current garage in conformance to the existing setback would result in the garage length being too short to park the boat trailer, thus not alleviating the outdoor storage and parking of the boat/trailer. The current garage is also aligned with the asphalt from the existing driveway so relocating it

with the setback would require repaving that portion of the driveway.” These same principles should be applied equally to Mr. Morse.

2. See Exhibit 6 – Code Violations: Numerous City of Shoreview residents store vehicles and other miscellaneous property on their residential lots in violation of the city code.
3. See Exhibit 7 – Code Violations: Numerous City of Shoreview residents maintain structures on their residential lots, such as garages and sheds, in violation of the city code.

**5. Economic Considerations Weigh in Favor of Granting the Variance.**

- a. Cost of building the new garage: \$40,000
- b. Cost of demolishing/moving/rebuilding the new garage: \$40,000
  - i. See **Exhibit 8** - Affidavit of Michael Morse
- c. Mr. Morse is unemployed and is unable to afford these significant expenses.

**6. Other Considerations**

- a. Bought house when was 19, did not know anything about having to get a permit.
- b. Neighbor told Mr. Morse that he didn't get permit when built his garage.
- c. Garage will increase property value – more tax income for the city.
- d. Building a shed in the back yard will not allow for enough room to bring large equipment/vehicles from street to backyard.
- e. Will build addition to the house in the future, which will increase square footage of the house.

- 7. Conclusion:** Based on the factors set forth above, Mr. Morse respectfully requests that the city grant the requested variance and permit him to complete construction of the presently unfinished garage.



MapRamsey

## 2011 Aerial, 1648 Lois Drive



## Legend

- 5
- County Offices
  - City Halls
  - Schools
  - Hospitals
  - Fire Stations
  - Police Stations
  - Recreational Centers
  - Parcel Points
  - Parcel Boundaries
  - Cities
  - Streets (<=8K)
    - Interstate
    - US Highway; MN Highway
    - Ramp
    - County Road
    - Municipal Street
    - Service Road
    - Private Road
    - Restricted Access Route
    - ASR
  - External Anoka (<32K)
    - Federal and State
    - Local
  - External Dakota (<32K)
    - Federal and State
    - Local
  - External Hennepin (<32K)
    - Federal and State
    - Local
  - External Washington (<32K)
    - Federal and State
    - Local

## Notes

Enter Map Description

104.0 0 52.01 104.0 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
THIS MAP IS NOT TO BE USED FOR NAVIGATION



$$\frac{1}{10} = 1 - 0$$

75'  
400 500

22.

2.354

23 ACRES  
75' WIDE  
155' DEEP  
10% IMPERVIOUS

UNUSABLE  
RCS OR  
TO DRAINAGE

50'

177.5  
45

12.5 25x

HOUSE  
24' x 32'  
768 sq ft  
@ 15¢ = \$115.20  
GARAGE

P.L.N. 04.30.28.41.007  
1646 Las Vegas

33.4

NAME \_\_\_\_\_

RECEIVED

OCT 01 2012

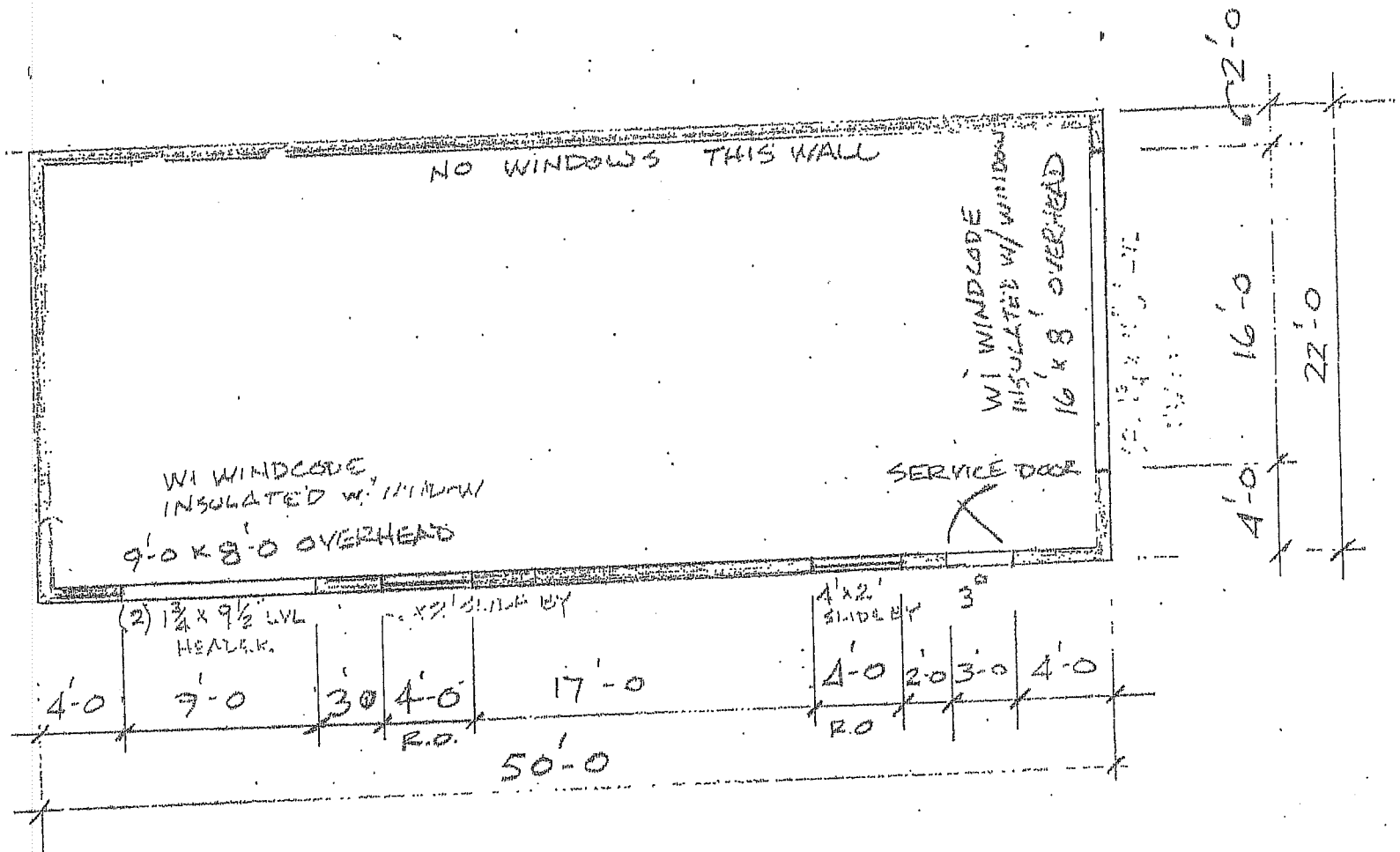
### SECTION - DRAINAGE DITCH

$$\sqrt{8''} \approx 1' - 0''$$

13.5° —

EDGE OF

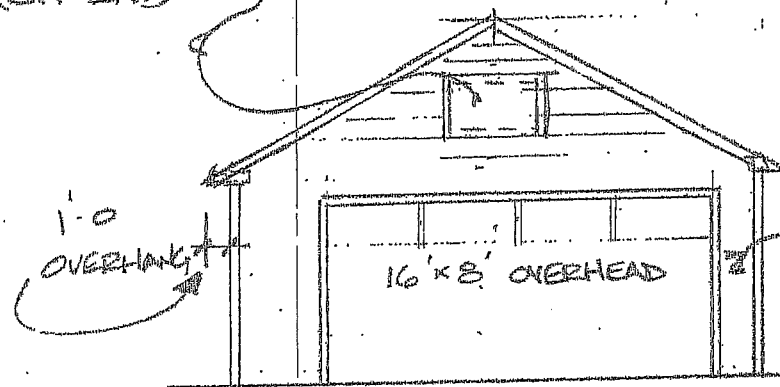
JOB: MIKE MORSE  
1648 LOIS DR.  
SHOREVIEW, MN. 55126



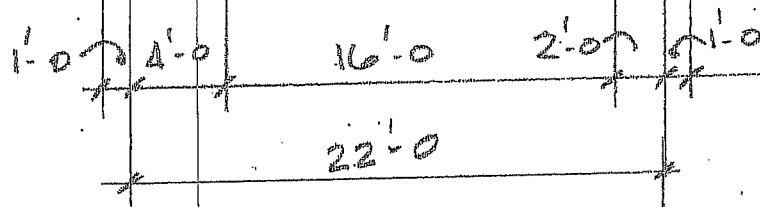
PLAN 1/8" = 1'-0"



OPTIONAL WINDOW  
VINYL SLIDER  
(1) EACH END

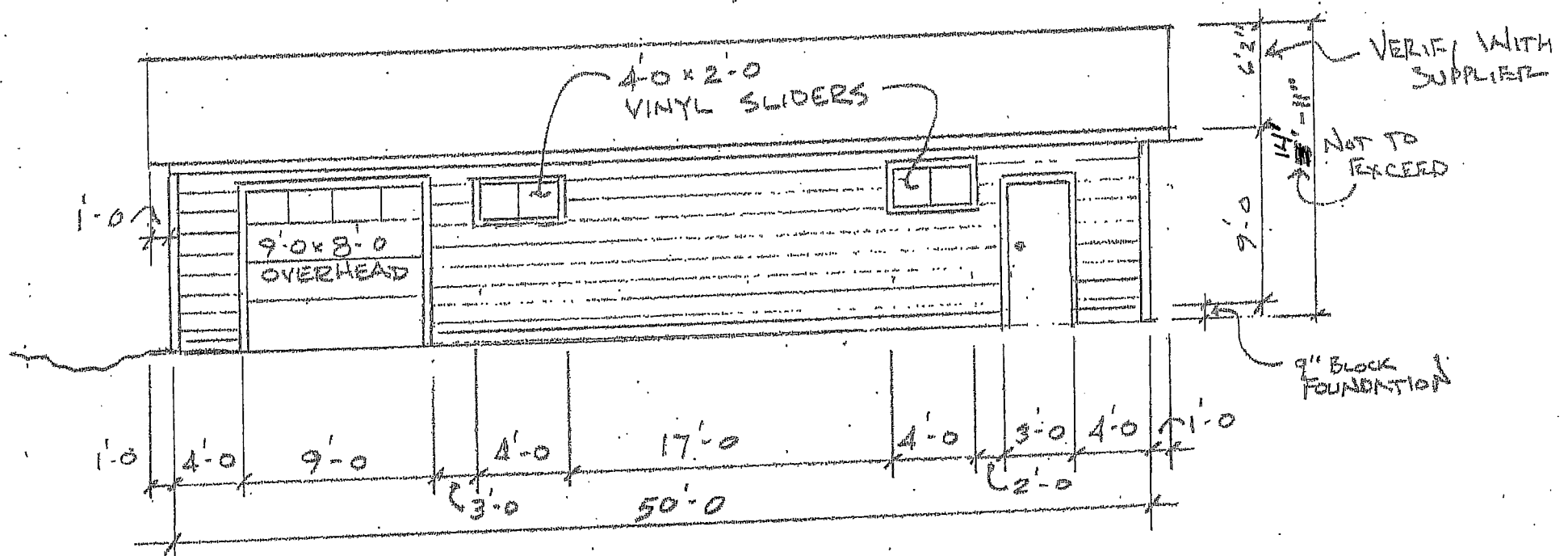


4" DOUBLE  
VINYL SIDING  
(WHITE)

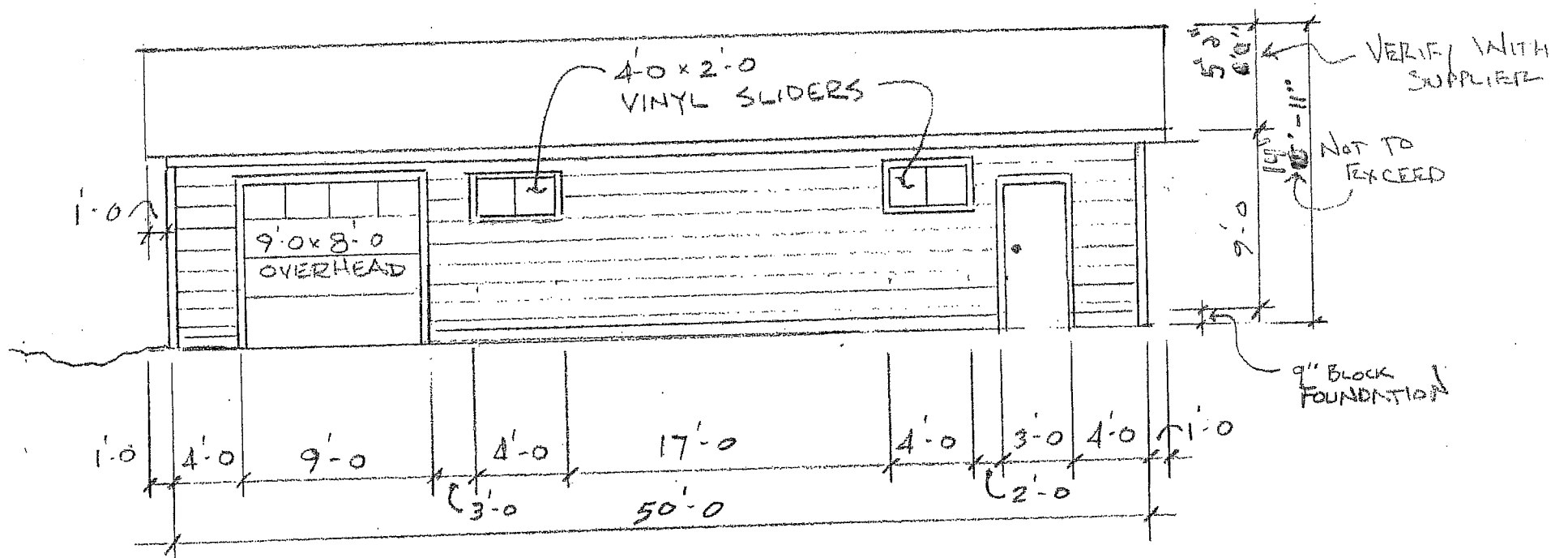


FRONT ELEVATION

$\frac{1}{8}'' = 1'-0$

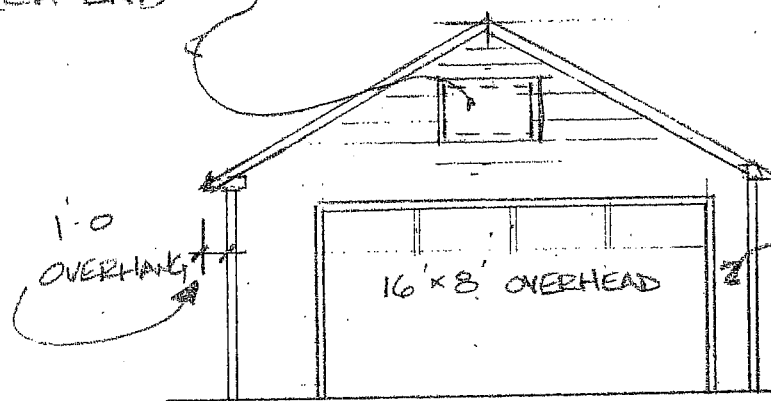


SIDE ELEVATION  
1/8" = 1'-0"



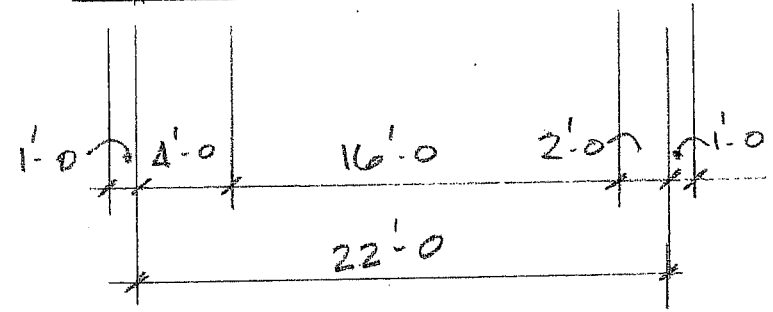
SIDE ELEVATION  
1/8" = 1'-0"

OPTIONAL WINDOW  
VINYL SLIDER  
(1) EACH END



4" DOUBLE  
VINYL SIDING  
(WHITE)

14'  
11"



FRONT ELEVATION

1/8" = 1'-0"

# Exhibit 1

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES**

**EXHIBIT 1**

**September 25, 2007**

**CALL TO ORDER**

Chair Feldsien called the meeting of the September 25, 2007 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chair Feldsien, Commissioners Mons, Proud, Schumer and Solomonson.

Commissioners Ferrington and Wenner were absent.

**APPROVAL OF AGENDA**

MOTION: by Commissioner Proud, seconded by Commissioner Schumer to approve the agenda as submitted.

ROLL CALL: Ayes - 5 Nays - 0

**APPROVAL OF MINUTES**

The following corrections were made:

Page 1: Commissioner Schumer noted that Acting Chair Proud should not be listed twice under the roll call.

Page 11: In the second paragraph, Commissioner Proud added that Mr. Morri answered his question in the affirmative as to understanding condition No. 5 of the motion.

MOTION: by Commissioner Schumer, seconded by Commissioner Proud to accept the August 28, 2007 Planning Commission meeting minutes as amended.

ROLL CALL: Ayes - 3 Nays - 0 Abstain (Feldsien, Mons)

Chair Feldsien and Commissioner Mons abstained, as they were not present at the meeting.

**REPORT ON CITY COUNCIL ACTIONS**

City Planner Nordine stated that there were no City Council actions to report.

## **VARIANCE**

**FILE NO.:** 2289-07-30  
**APPLICANTS:** DOUG AND KATHLEEN OLSON  
**LOCATION:** 5405 CARLSON ROAD

### **Presentation by City Planner Kathleen Nordine**

The property consists of over 32,000 square feet with a lot width of 90 feet and has frontage on Turtle Lake. The request is to construct a garage that would exceed the maximum floor area allowed of 750 feet to 880 square feet. The maximum height of 18 feet would be increased to 19.5 feet, and the maximum interior height allowed of 6 feet would be increased to 6.5 feet to accommodate the upper storage area of the garage. The existing garage is 824 square feet and has storage area above the main floor. Variances are needed for the square footage area, exterior height and interior height. The new garage would replace an old garage that would be removed. One landmark tree would have to be removed and will be replaced with two trees on the street side of the garage. The new garage would be the same style of design. This request was tabled at the August 28, 2007 Planning Commission meeting with the request from Commissioners for additional information.

The applicant states that the existing garage is in poor condition. Modern building methods would be used to rebuild. The height variances are needed for safe ingress and egress to accommodate the upper storage area. Another shed of 290 square feet that is on the property would be removed. The resulting impervious surface coverage would decrease with this plan. The setback of the garage would be increased to comply with the City's setback regulation of 5 feet. Staff believes the overall result is positive with the setback compliance; reduction in lot coverage and the new garage will reduce the number of accessory structures. There would not be a significant impact to the neighborhood, and staff is recommending approval.

Property owners were re-noticed of this application for this meeting. No comments were received.

Commissioner Solomonson noted that a new second accessory structure could be built because the total amount of area of accessory structure allowed is 1200 square feet. Ms. Nordine stated that if a second accessory structure were to be built, the size could be no more than 150 square feet.

Chair Feldsien stated that he is pleased to see that impervious surface will be reduced by 10%.

Commissioner Mons asked if the applicant has any intent to build a second accessory structure of 150 square feet. **Mrs. Olson** stated that the existing garage is ready to fall down. Construction of the new garage will adequately meet their needs and they are not planning on another accessory structure.

Commissioner Mons asked if a condition could be added to prevent another accessory structure with the granting of this variance. The City Attorney responded that if a second accessory



structure is specifically permitted in the Code, she would not advise disallowing it because that would mean treating one property differently from another.

**MOVED BY COMMISSION MEMBER: Proud**

**SECONDED BY COMMISSION MEMBER: Solomonson**

To adopt Resolution 07-64, approving the variance requests submitted by Douglas and Kathleen Olson, 5405 Carlson Road for a detached accessory structure to exceed the maximum 750 square feet area permitted; 880 square feet proposed; and to exceed the maximum 18-foot building height permitted; 19'6" proposed, and to exceed the maximum 6-foot interior height for a storage area above the main floor; 6'6" proposed, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
4. Any landmark trees removed for the construction of the garage must be replaced in accordance with the City's Vegetation and Woodlands Ordinance.
5. A grading plan shall be submitted to the City with the building permit application.
6. Impervious surface coverage shall not exceed 25%.
7. The exterior design and construction of the structure must comply with Section 205.082 (5e), Exterior Design and Construction.
8. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.
9. The proposed storage area above the main floor shall be used for storage only and cannot be converted to habitable area or living space.
10. The proposed detached garage requires City approval (administrative) of the Detached Accessory Structure Permit for Riparian Lots and Residential Design Review.

Discussion:

Commissioner Mons stated that he would support the motion. Part of the rationale for the hardship is the removal of the storage shed. At a later date a shed could be built again. He would like staff and the City Attorney to look into how similar situations could be resolved in the future.

ROLL CALL:           Ayes - 5                   Nays - 0

**NEW BUSINESS**

**SITE AND BUILDING PLAN REVIEW**

**FILE NO.:** 2291-07-32  
**APPLICANT:** LIFESPAN OF MINNESOTA  
**LOCATION:** 529 COUNTY ROAD E

Lifespan has requested that this matter be tabled in order to provide the information requested by staff. Lifespan agrees to increase the review period to 120 days. When the matter is considered, property owners will be re-noticed.

**MOVED BY COMMISSION MEMBER:** SCHUMER

**SECONDED BY COMMISSION MEMBER:** SOLOMONSON

To table the Site and Building Plan review application submitted by Life Span, 529 County Road E, for a fenced play yard area and extend the review period from 60 to 120 days.

**VOTE:**                      **AYES:**        5                      **NAYS:**        0

**SITE AND BUILDING PLAN REVIEW**

**FILE NO.:** 2292-07-33  
**APPLICANT:** LOU SPEGGEN/RAMSEY COUNTY  
**LOCATION:** 210 NORTH OWASSO BOULEVARD

Lake Owasso Residence provides services and housing for developmentally disabled adults. The property consists of 9.4 acres with 500 feet of frontage on Lake Owasso. There are eight residential buildings, an administration building and a storage garage, which is 720 square feet. The County has applied to construct an addition to the garage of 480 square feet to store seasonal equipment. The garage is located in the southeast corner of the property 51 feet north of the rear lot lines of abutting properties on Jerrold Avenue. The proposed addition would reduce the setback to 37 feet. The required setback is 10 feet.

The proposed addition would be constructed with the same design as the existing storage building with 4-foot overhangs except for the south side that will have a 2-foot overhang. The walls will be the same at 9.67 feet and a 6/12-pitch roof. Exterior building materials would match the existing building. With the addition, the garage would have a total of 1200 square feet, which is larger than a typical detached accessory building. However, adjacent properties have larger garages of 720 square feet on one property and 1000 square feet on another. There is a chain link fence along the south lot line and mature trees to provide some screening.

Property owners within 350 feet were notified of the application. One written comment was received expressing concern about the construction noise in early morning and the size of the resulting addition.

The combination of fence, trees, landscaping and the 37-foot setback are adequate to not cause an adverse effect on neighboring residential properties. Staff would recommend the Planning Commission forward this application to the City Council with a recommendation for approval.

Commissioner Mons offered an amendment to the motion to not refer specifically to the storage of bicycles but state generally storage of recreational equipment for the residents.

Chair Feldsien opened the discussion to public comment. There was none.

**MOVED BY COMMISSION MEMBER: MONS**

**SECONDED BY COMMISSION MEMBER: PROUD**

To recommend the City Council approve the Site and Building Plan request submitted for the Lake Owasso Residence for a 16 by 30 foot accessory building addition, located on property at 210 N. Owasso Boulevard. Said approval is subject to the following:

1. Approval is for the continued use of the property as an Institutional Use (Lake Owasso Residence) for developmentally disabled individuals. A 16 by 30 foot addition to the existing accessory building is approved. The project must be completed in accordance with the plans dated 09/04/07 and submitted as part of the application. The garage addition shall maintain a minimum setback of 37-feet from the south property line. Any significant changes to these plans, as determined by the City Planner, will require review by the Planning Commission and approval of the City Council.
2. The storage building shall be used for equipment, supply and storage of supplies, maintenance and recreational equipment and associated repair. The equipment must be used solely by the Lake Owasso Home. No commercial use of the building is permitted.
3. One box elder tree will be removed. All other existing vegetation along the southern property line shall be preserved.
4. The approval will expire after one year if a building permit has not been issued and work has not begun on the project.

**VOTE: AYES: 5 NAYS: 0**

### **MISCELLANEOUS**

Commissioners Mons and Ferrington are scheduled to attend the October 1<sup>st</sup> and October 15<sup>th</sup> City Council meetings respectively. Commissioner Schumer stated that he is scheduled to attend a Council meeting in November, but he will not be present at the October Planning Commission meeting. He offered to attend the October 15<sup>th</sup> Council meeting in place of Commissioner Ferrington. Staff will contact Commissioner Ferrington to see if she would like to reschedule.

### **ADJOURNMENT**

MOTION: by Commissioner Schumer, seconded by Commissioner Mons to adjourn the September 25, 2007 Planning Commission meeting at 7:51 p.m.

ROLL CALL: Ayes - 5 Nays - 0

ATTEST:

---

Kathleen Nordine  
City Planner

## Exhibit 2

## EXHIBIT 2

### SHOREVIEW PLANNING COMMISSION MEETING December 13, 2012

#### **CALL TO ORDER**

Chair Solomonson called the meeting of the December 13, 2012 Shoreview Planning Commission meeting to order at 7:00 p.m.

#### **ROLL CALL**

The following members were present: Chair Solomonson; Commissioners, Ferrington, McCool, Proud, Schumer, and Thompson.

Commissioner Wenner was absent.

#### **APPROVAL OF AGENDA**

**MOTION:** by Commissioner Schumer, seconded by Commissioner Proud to approve the December 13, 2012 agenda as submitted.

**VOTE:**                                      Ayes - 6                                      Nays - 0

#### **APPROVAL OF MINUTES**

**MOTION:** by Commissioner Proud, seconded Commissioner Schumer to approve the October 23, 2012 Planning Commission minutes as submitted:

**VOTE:**                                      Ayes - 6                                      Nays - 0

#### **REPORT ON COUNCIL ACTION**

City Planner Nordine stated that the City Council approved the following applications as recommended by the Planning Commission:

- Amendment to Planned Unit Development - Development Stage, Heather Ridge Townhouse Association for the addition of active recreation space
- Site and Building Plan Review for Tom Houck, 4610 Milton Street for an addition
- Site and Building Plan Review for Lake Johanna Fire Department, Station No. 4 addition

## **NEW BUSINESS**

### **SITE AND BUILDING PLAN REVIEW**

**File No:** 2472-12-35  
**Applicant:** Venture Pass Partners, LLC  
**Location:** 1041 Red Fox Road

#### **Presentation by City Planner Kathleen Nordine**

The application is to construct a 14,000 square foot specialty grocer, Trader Joe's. This is Phase 2 of the approved PUD for this site. The property is platted with three parcels. Phase 1 has been completed with a retail center. Phase 3 will be for a commercial bank building. Easements have been executed for access, parking and maintenance. Some of the private infrastructure has been constructed for the phases. The approved PUD does allow for Code deviations of structure setback from the 50 feet required from I-694 to 48.5 feet. Parking spaces are 15 feet from I-694 rather than the required 20 feet.

Storm water management was constructed as part of the overall PUD. There is 72% lot coverage, which is less than the 80% allowed. The architecture design is similar to the retail center. Three wall signs for the Trader Joe's were approved with the Comprehensive Sign Plan.

Concerns of traffic were expressed, and a feasibility study for road improvements on Red Fox Road is scheduled to be presented to the City Council in December.

Property owners within 350 feet were notified of the project. The Lake Johanna Fire Department did submit comments. Staff finds that the proposal is consistent with the PUD and recommends approval with the conditions listed in the staff report.

Commissioner Ferrington asked for more details on the proposed road improvements for Red Fox Road. Ms. Nordine stated that the work would include lane widening, a right turn lane onto Red Fox Road from Lexington, and medians to manage turning movements on Red Fox Road.

Commissioner Schumer asked if there would be a drive in the back of the building for deliveries rather than trucks driving through the parking lot. Ms. Nordine stated that an added access was discussed to help traffic flow for deliveries.

Chair Solomonson asked if there are conditions for snow storage, hours of delivery and truck parking. Ms. Nordine stated that delivery hours and truck parking limitations are not proposed as this commercial area is not adjacent to residential neighborhoods.

**Mr. Randy Rauwerdink**, Vice President introduced Dave Carland, President; and Jim Ottenstein, Executive Vice President of Ventures Pass. He stated that great care has been taken to incorporate the design of the retail center for Trader Joe's. The liquor store portion of the store is at the south end of the building with separate access. The delivery door faces the



freeway and not visible. Snow storage would be on green areas at the north and south end of the site. He thanked the Commission for considering the application and commended staff for an accurate report.

Commissioner McCool asked if there will be cart storage in the parking lot. **Mr. Rauwerdink** stated that there are and there is a screened wall in front of the building where they will be stored.

Chair Solomonson opened discussion of the project to the public. There were no comments or questions.

Chair Solomonson requested that copies of the plan for traffic improvements be sent to the Planning Commission.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to approve the Site and Building Permit Review application, including the Development Agreements, submitted by Shoreview Ventures for the development of 1041 Red Fox Road with a Trader Joe's specialty grocery market. The submitted development plans are consistent with the approved PUD master plan and the City's development standards.

1. This approval permits the development of this parcel with a 14,000 square foot specialty grocery market.
2. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director, prior to the issuance of a building permit for this project.
3. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project.
4. The master development agreement for the plat and PUD for this development shall remain in effect and said terms which apply to Lot 1 shall be adhered to.
5. The items identified in the memo from the Assistant City Engineer/Public Works Director must be addressed prior to the issuance of a building permit.
6. The items identified in the memo from the Fire Marshal shall be addressed prior to the issuance of a building permit.
7. The Building Official is authorized to issue a building permit for the project, upon satisfaction of the conditions above.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the City's Comprehensive Plan.
2. The proposed land use and development plans are consistent with the approved PUD and the Development Code standards.
3. The use is in harmony with the general purposes and intent of the Development Code and Comprehensive Plan.

**VOTE:**        Ayes - 6                      Nays - 0

## **COMPREHENSIVE SIGN PLAN AMENDMENT**

**File No:** 2469-12-32  
**Applicant:** TCF / Color Sign Systems, Inc.  
**Location:** 3836 Lexington Avenue

### **Presentation by Senior Planner Rob Warwick**

The amendment is to the sign plan approved by the Planning Commission at its August meeting and approved by the City Council on September 17, 2012. The approved plan includes three wall signs, a pylon sign with an integrated message center sign, two illuminated window signs that only state, "OPEN" or "CLOSED", and traffic direction signs. TCF has requested an amendment for a monument sign with an integrated message center rather than a pylon sign. The monument sign would be larger with an area of 59.1 square feet. The message center would have an added 25.2 square feet; 10 square feet was approved on the pylon sign. The height of 13.8 feet for the monument sign is shorter than the approved 20-foot pylon sign. The height is higher than what is allowed for a building of less than 20,000 square feet.

TCF is located at the corner of Lexington and Red Fox Road. Public street access is with a right-turn only. There is full access from the Target service drive. TCF will convey easements along Red Fox Road and Lexington for the sign, which announces the gateway to the Red Fox Road retail area. The sign will be set back 5 feet per City requirements. City Code encourages use of monument signs rather than pylon signs.

The message center was approved at 10 seconds per display. TCF has requested 8 seconds per display.

Staff supports the amendment. Materials are consistent with what was previously approved. It is important for the sign to be visible from Red Fox Road and Lexington. The message center sign is reasonable for this property.

Notice was given to property owners within 350 feet. No comments were received. The amendment complies with the criteria and findings. Staff is recommending that the Planning Commission forward the amendment to the City Council for approval.

Chair Solomonson asked if the sign on Red Fox and Lexington will be a message center sign. Mr. Warwick stated that he does not anticipate a message center sign in that location because it is difficult with multiple users to prioritize use.

Commissioner Proud asked if the brightness of the sign is in conformance with City regulations. Mr. Warwick stated that the applicant is aware of industry standards. The sign brightness is set at the factory and has an automatic dimmer to adjust ambient light conditions. Billboard regulations are 0.3 foot candles above ambient light measured at the center of the street.

Commissioner Proud asked how much brighter the factory settings are than the ambient lighting. Mr. Warwick stated that ambient lighting is difficult to measure, but if there are concerns, he

would suggest a condition to address illumination measured in foot candles at a specified distance, such as from the center of the road as is used in parking lot lighting. He also noted that the example depicts a graphic which is in violation of Code. Only text is to be used. He asked if multiple colors are allowed. Mr. Warwick stated that an amber color is required by Code on message center signs in residential areas. No limitation exists in non-residential areas regarding color. A condition is required that a uniform color and height be used and that no graphics are to be used to make the sign consistent with Code requirements.

Commissioner McCool noted that TCF has indicated the sign will be controlled centrally and asked how Shoreview regulations would be enforced, especially if their messages are uniform and Shoreview has different regulations from other communities. Mr. Warwick explained that the central control is to vary the message, but it will be uniform with Shoreview regulations.

**Mr. Dave Shannon**, Color Sign Systems, stated that he is representing TCF regarding signage. Commissioner Proud asked about the brightness settings. Mr. Shannon stated that the maximum brightness is set to match City Code at 5,000 nits. It automatically dims according to conditions of ambient light. Once the settings are put in, there are usually few complaints.

Commissioner Proud asked how much brighter the sign will be than ambient light conditions. He requested that a published standard, not the industry standard be provided to the Commission. **Mr. Shannon** stated that he is only familiar with brightness in terms of nits and not in comparison to ambient light. He offered to research an answer for Commissioner Proud. He noted that many cities have no restrictions and 5,000 nits as proposed is the lowest brilliance used.

Commissioner McCool asked why the sign is 13 feet in height rather than the 12-foot City standard. **Mr. Shannon** stated that the sign is 3 feet from grade with a brick base. A standard TCF small sign is the one proposed. The information has to fit around the logo and fit as close as possible to Code. It is not possible to purchase a message center small enough to meet Code. The height of the sign could be reduced by making the base one foot above grade, but that may not be above snow cover. Mr. Shannon added that the sign programming is done by his office in accordance with City Code.

Commissioner McCool asked for information that will be posted on the sign. **Mr. Shannon** explained that the time and temperature that TCF always posts will be on the sign. His company programs the sign every week. There will be public service announcements according to what TCF requests. Each sign has its own schedule and set of messages.

Commissioner Schumer noted that a condition of approval is that no graphics are to be used. **Mr. Shannon** stated that would be a deal breaker. The same is true for uniform lettering. Flexibility is needed to fit the message for readability.

Commissioner Proud noted that graphics are prohibited in the City's sign ordinance. **Mr. Shannon** stated that the pylon sign was approved with a color message center as drawn on the illustration. Mr. Warwick stated that similar conditions were imposed on the prior approval of the pylon sign. Technology is changing so rapidly that some sign companies do not make a one-

color sign anymore. He can buy one, but that is not what TCF would like to have and he would not recommend they spend thousands of dollars for a one-color sign. In his 40 years of business, he has not heard of a lawsuit from an accident based on the design of a sign.

Commissioner Proud asked if it would be possible to postpone this decision another month. He would have difficulty supporting this request that clearly deviates from City Code. **Mr. Shannon** stated that it takes 60 days for the equipment to be shipped in, and the grand opening is in February. He offered to call staff directly regarding brightness, if that is a concern.

Commissioner Ferrington asked if the pylon sign conditions proposed by Staff included uniform color and prohibited graphics. Mr. Warwick answered, yes. The Comprehensive Sign Plan is the mechanism to allow deviations.

Chair Solomonson noted that there are two large digital billboards on I-694, and one of them is visible from this site. Through the Comprehensive Sign Plan, the requested deviations can be granted, which he would favor.

Commissioner Proud stated that the Code is based on aesthetics. He does not see justifying the deviations requested based on the billboards previously approved.

Commissioner McCool stated that the graphics and colors are not a great concern for him. However, he does not want this sign to become the community bulletin board. He would like messages to be limited to business operations. He would like the sign to comply with the 12-foot height, as the location is on an elevated grade.

Commissioner Schumer stated that he does not have a problem with the colors and graphics. Technology has moved quickly. The height is lower and he does not have a problem with 13 feet. He would eliminate condition Nos. 1 and 4.

Commissioner Thompson stated that the sign is very attractive. The colors, graphics and height are not a concern. She asked the City's perspective knowing the purpose of this sign. Mr. Warwick stated the conditions are based on Code. Deviations can be approved with a Comprehensive Sign Plan.

Commissioner Ferrington stated that the applicant knew the conditions for approval and was not addressed at this meeting. She would like to see the height be in compliance with the 12-foot limit.

Commissioner Proud stated that he would not support graphics. The Code states that messages should relate to goods and services on the premises. Even time and temperature are questionable.

Chair Solomonson responded that the pylon sign approved was 20 feet. This is a reduction and he can support the request.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the Comprehensive Sign Plan amendment submitted by TCF Bank for 3836 Lexington Avenue, subject to the following conditions with a change to C1. to read, display text sufficient to be readable by motorists without distraction and elimination of condition No. 4 under C. Approval is based on the five findings of fact.

- A. The signs shall comply with the plans submitted for the Comprehensive Sign Plan application. Any significant change will require review by the Planning Commission and City Council.
- B. The applicant shall obtain a sign permit prior to the installation of any signs on the property.
- C. The message center sign shall:
  - 1. Display text using a uniform color and letter height sufficient to be readable by passing motorists without distraction.
  - 2. Messages shall be limited to allow passing motorists to read the entire copy.
  - 3. Messages shall not include telephone numbers, email addresses or internet urls.
  - 4. No graphics shall be displayed on the message center.
  - 5. Messages shall be displayed for a minimum of 8 seconds, and shall change instantaneously.
  - 6. Messages be presented in a static display, and shall not scroll, flash, blink or fade.
- D. Traffic Directional signs shall not be located in the public street right-of-way without the authorization of the appropriate jurisdictional agency.

This approval is based on the following findings of fact:

- 1. *The plan proposes signs consistent in color, size and materials throughout the site for each type of proposed sign.* Each type of sign (Monument, Wall, Traffic Directional, etc.) uses uniform color and materials, and with colors generally based on the TCF logo.
- 2. *Approving the deviation is necessary to relieve a practical difficulty existing on the property.* The business needs visibility from each elevation facing an access point and that the proposed signs provide that needed visibility. Staff believes that lot access presents a practical difficulty that warrants additional business identification. The corner location at the intersection of Lexington (an arterial) and Red Fox Road (a local street) also contributes to the practical difficulty since Red Fox is the main road for this retail area, but is classified as a local road.

3. *The proposed deviations from the standards of Section 208 result in a more unified sign package and greater aesthetic appeal between signs on the site.* The wall signs proposed give a uniform appearance to each building elevation facing a vehicular access point. Message center signs are not uncommon at bank facilities. Use of the message center is reasonable and consistent with previous City decisions regarding message center signs.
4. *Approving the deviation will not confer a special privilege on the applicant that would normally be denied under the Ordinance.* The configuration of the access to the lot and building is unique for this property with two points of ingress that are right turn only, and only one point of egress.
5. *The resulting sign plan is effective, functional, attractive and compatible with community standards.* The sign plan proposes signs with design and sign areas that generally conform to the provisions of Code.

Discussion:

Commissioner Proud stated that he does not agree that the findings address practical difficulty in the City's standard.

City Attorney Filla stated that Section 203.040, subd. C2(c)ii requires a finding of practical difficulty for deviation from the Sign Code.

Commissioner Proud stated that the applicant indicated a sign with a single color is possible. He would like to see this matter continued in order to have a more thorough and deliberate discussion to resolve difficulties.

Commissioner McCool stated that in relation to practical difficulty, he is convinced that the deviations are reasonable. The market has determined the changes in signs and colors and graphics that are not the creation of the applicant.

Commissioner McCool offered an amendment to the motion: to add No. 6 to condition No. C to read, "sign may display time, weather conditions and images that reflect weather conditions and shall advertise only goods or services offered on the premises. Commissioner Proud seconded this amendment.

VOTE ON FIRST AMENDMENT

Ayes - 5

Nays - 1 (Schumer)

Commissioner McCool offered a second amendment, Condition E. that the sign shall be no taller than 12 feet in height. Commissioner Ferrington seconded.

VOTE ON SECOND AMENDMENT

Ayes - 4

Nays - 2 (Schumer, Thompson)

## **VOTE ON ORIGINAL MOTION AS AMENDED BY ABOVE TWO AMENDMENTS**

VOTE:           Ayes - 4                           Nays - 2 (Ferrington, Proud)

Chair Solomonson called a break and reconvened the meeting at 8:55 p.m.

### **VARIANCE**

**File No:**                   2468-12-31  
**Applicant:**             Michael Morse  
**Location:**             1648 Lois Drive

#### **Presentation by City Planner Kathleen Nordine**

The following variances are requested in order to complete a partially constructed detached garage:

- Exceed the maximum area permitted of 576 square feet to 1,100 square feet
- Exceed combined area permitted of 691 square feet to 1,100 square feet
- Exceed the maximum height permitted of 15 feet to 15.91 feet
- Reduce the required 5-foot west side setback to 2.3 feet.

This application is similar to one presented to the Planning Commission in 2011, which the Planning Commission denied.

In July 2011, the City became aware that this structure was being constructed. A Stop Work Order was issued, as no building permit had been issued. The structure is in noncompliance, and the property owner applied for variances. In August 2011, the Planning Commission reviewed the request for variances and determined that practical difficulty did not exist. The variances were denied. In September 2011, the City Council considered an appeal of the Planning Commission decision by Mr. Morse. The City Council upheld the Planning Commission decision.

In October 2011, Mr. Morse was notified that the property needed to be brought into compliance by November 1, 2011. In December 2011, the City Council held an abatement hearing and determined that the structure is a public nuisance and ordered its abatement. At present, the structure remains on the property, and the City has filed a complaint with the District Court seeking an order for removal of the structure. A decision has not yet been issued.

The City's Development Code allows a property owner to file the same or similar application six months after denial. The applicant has indicated that an addition to the home is planned that



would increase the foundation of the living area to a total of 1,375 square feet. However, since the addition has not been constructed, that total cannot be used in the formula for accessory structure, which is 75% of foundation area of the principal structure. The property is zoned R1.

The applicant states that the proposed garage is similar to the sizes of other garages in the neighborhood. The existing home is small, and the square footage allowed is not adequate. Code restrictions depress the property value. A drainage easement on the south side restricts location of the structure. The side yard encroachment is necessary to achieve a reasonable sized garage. The new garage is in the same location as the previous one. Also, the applicant has stated that he was not aware that a building permit was needed.

Staff has reviewed the application and does not believe that practical difficulty exists. As the new garage is 140% of the foundation of the house, it becomes the principal structure on the property. The proposed 1,100 square feet is not reasonable due to the size of the lot, the house and proximity to the side property line. Although the house is small, it is similar to other homes in the neighborhood with smaller garages. There are some garages in the neighborhood that are larger, but most are in compliance. The drainage easement is not unique and does not create the need for encroachment into the side setback. The 2.3 feet does not allow enough room for mitigation of the impact of the size of the structure.

Public comment does not support the structure, and residents have asked why it still remains. Staff is recommending denial, as the circumstances have not changed from the first application. The property can be used in a reasonable manner and there is space to build a garage that would be in compliance. The size of the proposed structure will negatively impact the neighborhood.

City Attorney Filla stated that the application can be considered six months after denial. Litigation has commenced, and a trial will be scheduled for spring of 2013.

Commissioner McCool asked if a building permit was applied for to build the house addition. Ms. Nordine stated that an application for a house addition and completion of the garage was submitted. The application was denied because the accessory structure is not in compliance.

Chair Solomonson asked staff to comment on previous Code requirements, when other larger garages were built in the neighborhood and to compare this application with other smaller homes in the area with larger garages. Ms. Nordine stated that the Development Code was amended in 2006 when accessory structure regulations became stricter. A chart of properties in the area shows the largest garage is 937 square feet and just over the size of the home at 102%.

Commissioner Schumer asked if only a building permit would be needed if just the house addition were being considered. Ms. Nordine answered that only a building permit is needed. Commissioner Schumer asked if the garage was approved, what amount of time would be allowed for the house addition. Ms. Nordine stated that the house addition is a separate issue. Even if the addition were completed, variances would be needed for the garage setback and size which would exceed 75% of the house foundation area.

**Mr. Fritz Knaak**, Attorney for the Applicant, stated that it will cost many thousands of dollars to remove a structure for which he was unaware a building permit was needed. Practical difficulty does exist in this case. He distributed a letter to the Planning Commission summarizing his comments at this meeting. The current condition of the garage is ugly and covered with plastic to preserve it until the issues can be resolved. This small home was purchased by the applicant as a single person. Now he has become a family of four. The addition he plans is to keep his family in this home. Under the City's Code, the owner of a smaller house is not entitled to enlarge a garage to accommodate the number of people or vehicles owned. The initial design was taken from other garages he observed in the neighborhood. He was unaware of needing a building permit. What is being asked is not far-fetched. There are practical difficulties. The character of the neighborhood is eclectic in terms of accessory structures. The larger garage enhances the value of the home. He showed photographs of larger garages in the neighborhood. The footprint of the garage is aligned with the driveway and on the same location of the previous garage with the same setback. The drainage easement is a deep ditch, which is a significant hardship and implicates where anything can be located on the property. What is proposed is consistent with the neighborhood. The original roof line can be engineered down to 15 feet. The major issue is the size, but it is not bigger than others in the neighborhood, and the ratio of house size to garage size is not unique. What is unique is the neighborhood with other small homes and larger garages.

Chair Solomonson opened the discussion to public comment. There were no comments or questions.

Commissioner McCool asked why the drainage ditch precludes a side setback of a compliant 5 feet. **Mr. Knaak** stated that the entire configuration of the driveway and house is based on the location of the ditch and impacts the setback. Commissioner McCool stated that a garage of 22' x 50' is remarkably large. He asked why the largest allowed garage of 750 square feet would not be adequate. **Mr. Knaak** explained that the size is driven by the need to store vehicles.

Commissioner McCool asked if partial demolition has been explored. **Mr. Knaak** explained that the problem is that there is a concrete pad with footings that would have to be broken up.

Commissioner Proud stated that he is not convinced by the applicant's argument. Necessary proof has not been presented.

Commissioner Ferrington agreed. She visited the site. While the drainage may be problematic for the home, she does not see how it impacts the 2.3 foot setback. Also, it is impossible to verify that the garage is reconstructed on the same footprint that would allow grandfathering.

Commissioner Schumer stated that nothing has changed. As a homeowner, the applicant must go through the same processes as everyone else.

Commissioner McCool stated that he does not support the variances. He does not believe it is legally justifiable to oversize a garage on the basis of number of vehicles. It is too large for the house, even if there is an addition to the house. The proportion is too large. He is not convinced

there are unique circumstances. He stated that the comparisons shown by the applicant are not clear as to the proximity of the subject property.

Chair Solomonson stated that one of the biggest concerns is the size. He believes a size of 750 square feet would be 15 feet shorter, a size that is more in character. He agreed that without the completed house addition, that cannot be considered. The Commission can only consider what is before it.

Commissioner Thompson stated that the garage is too long and does not comply with City standards.

MOTION: by Commissioner McCool, seconded by Commissioner Schumer to deny the following variances requested by Mike Morse, 1648 Lois Drive, to retain and finish the partially-constructed detached accessory structure on his property:

1. To exceed the maximum area permitted (75% of the dwelling unit foundation area or 750 square feet which ever is more restrictive). The area of the detached accessory structure is 1,100 square feet exceeding the maximum of 576 square feet permitted.
2. To exceed the combined areas of all accessory structures on the property (90% of the dwelling unit foundation area or 1,200 square feet whichever is more restrictive). The combined area of all accessory structures is 1,100 square feet exceeding the 691 square feet permitted.
3. To exceed the height of the house (15 feet) - a height of 15'11" feet is proposed.
4. To reduce the required 5-foot setback from a side property line to 2.3 feet.

Said denial is based on the following findings of fact:

1. The request does not comply with the spirit and intent of the City's Development Code and Comprehensive Plan due to the proposed size of the detached accessory structure. The accessory structure would become a dominant structure and use on the property and not be subordinate to the principal residential dwelling unit. With the proposed 2.3-foot setback from the side property line, open space between properties is not maintained and space is restricted to maintain the structure from the applicant's property.
2. Reasonable Manner. The applicant can use his property in a reasonable manner as permitted by the Development Code. In accordance with the City's regulations a two-car 576 square foot detached accessory structure and a storage shed could be constructed on the property at the required 5-foot setback. To this finding, Commissioner McCool added the following: The applicant's proposal is not a reasonable use because both the size and height of the structure are too large in proportion to the house and surrounding structures. Also, it is possible for the structure to be placed further away from the lot line.

3. Unique Circumstances. Unique circumstances are not present as there are other similar size homes in the neighborhood and the Development Code does provide the applicant with options to construct a reasonably sized accessory structure(s) on the property. The existing drainage easement on the east side of the property is not a unique circumstance and does not impede on the 5-foot side yard setback required from the west side lot line.
4. Character of the Neighborhood. The proposed size and mass of the structure and setback from the western side lot line does negatively impact the character of the neighborhood and adjoining properties. The residential character of the property is compromised by a structure that exceeds the foundation size of the home. Visual mitigation is not feasible due to the encroachment on the minimum 5-foot side setback required and limited space for landscaping, stormwater management and building maintenance. To this finding, Commissioner McCool added that a review of houses and garages in the nearby vicinity reveals that the proposed garage is not consistent with the character of the neighborhood.

VOTE: Ayes - 6

Nays - 0

#### **CONDITIONAL USE PERMIT – PUBLIC HEARING**

**File No:** 2470-12-33  
**Applicant:** Dennis & Mary Louise Jarnot  
**Location:** 1000 Oakridge

#### **Presentation by City Planner Kathleen Nordine**

The application is for a Conditional Use Permit (CUP) to expand a second detached accessory structure on the property. A CUP is required for accessory structures to exceed the maximum area on parcels of 1 acre or more in size. The property is zoned R1. It is developed with a two-story single family home with a foundation area of 1,983 square feet. There is an attached garage of 753 square feet, a detached garage of 720 square feet and a storage shed of 168 square feet. The new structure would be 784 square feet and includes the existing storage shed which would be relocated to comply with the side yard setback. The combined floor area if all accessory structures is 2,257 square feet and the floor area of detached accessory structures combined is 1,537. The height is 17 feet; the maximum height allowed is 18 feet. The exterior is stucco with roof to match the other structures on the property.

The CUP allows uses that are compatible with conditions and standards to address any concerns identified during the review process.

The property is a low density detached residential use. The proposal is compatible with residential use and intended for the storage of vehicles and personal possessions. The location, height, design and setback requirements are in compliance with the City's Development Code. The closest residents are on Hanson. The proposed structure is 180 feet from the front property

line. Two public comments were received in support of the application. Staff is recommending approval.

Commissioner Ferrington stated that her only concern is that she wants to be sure there is little visibility of the structure, but the nearest dwelling is 180 feet away. Ms. Nordine stated that there are trees and a hedge.

Commission Solomonson asked the reason for the location near the other accessory structures.

**Mr. Dennis Jarnot**, Applicant, stated that the new structure will be behind an existing one and not visible. The distance to the nearest dwelling is 180 to 190 feet in front, the south is 320 feet and to the west property line is 210 feet. There is a hedge around the whole property. There are so many trees that one would have to stop in front of the property in order to see the new structure. He has 17 neighbors who abut his property. He has talked to 95% of them, and all are supportive. He is also planning to plant additional pines for winter screening in the 10-foot setback for more screening on that side. The structures are not used from November to April. There is no in and out everyday use because there is no driveway to the structures. It is used for storing collector cars, snowmobiles and a boat.

City Attorney Filla stated that he has reviewed the notices of publication and the required notices have been provided.

Chair Solomonson opened the public hearing.

**Mr. Todd Sharkey**, 4965 Hanson Road, asked if he could distribute some written information to the Commission. He stated that he called in the complaint. The complaint starts on Exhibit B1, where he says that his house is set back 90 feet. He has not taken out a permit. Mr. Jarnot does not have permission. His home is illegal, and Judge Wheeler, Ramsey County District Court, asked the City's Attorney who admitted the house is illegal. Judge Wheeler stated that the road could be barricaded. He will give the neighbors until the end of March to petition the City for a public street or he will barricade. On Exhibit M2 the roadway easement crosses his property. There is no certificate of survey to show how his house got there. There is no variance. He does not follow the rules. If the City does not take action to establish non-conforming rights, the Jarnot house at 1000 Oakridge diminishes property value. Exhibit X1, states that no further accessory structures will be permitted on this property, and he signed it. His house is not within Code. Mr. Jarnot knows he cannot have added accessory structures, but they are there. He has no reason to set his house back 52 feet further than City Code allows. In 2005, when he was denied a minor subdivision it was because it did not face a public street. However, Oakridge Avenue is a public street. Mr. Jarnot and two other property owners do not have public access to their own properties. It is not fair.

**MOTION:** by Commissioner Proud, seconded by Commissioner Schumer to close the public hearing.

**VOTE:**                      Ayes - 6                      Nays - 0

Commissioner Proud stated that material has been presented that needs to be carefully reviewed by the Commission, staff and legal counsel. He would suggest holding this matter over to the next Planning Commission meeting.

City Attorney Filla stated that as the application was completed November 19, there is time to hold the matter over if that is the wish of the Commission. Mr. Sharkey's information mostly has to do with Mr. Jarnot's house. This application is in regard to the accessory structure proposed.

It was the consensus of the Commission to move forward on this application. The information presented by Mr. Sharkey has more to do with access and Mr. Jarnot's house.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to recommend the City Council approve the Conditional Use Permit submitted by Dennis Jarnot, 1000 Oakridge Avenue, for a second detached accessory structure on the property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The existing vegetation, along that portion of the side property line adjacent to the proposed structure must remain and be maintained.
3. A minimum setback of 10 feet is required from the adjoining side property line.
4. The exterior design and height of the structure shall be residential in scale and be consistent with the existing single family home. The height of the structure as measured from the lowest ground grade to the peak shall not exceed 18'. The exterior sidewalls shall not exceed 10' in height and any interior storage above the main floor shall not exceed 6' in height.
5. The structure shall be used for storage purposes of household and lawn supplies, equipment, [and Commissioner Schumer added] recreational equipment, or automobiles. The structure cannot be used as a residence.
6. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance.

2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Plan and are compatible with the existing neighborhood.

Discussion:

Commissioner McCool offered an amendment to require additional screening with plantings in the 10-foot setback. Commissioners Schumer and Ferrington accepted the amendment.

VOTE ON MOTION WITH AMENDMENT

Ayes - 6

Nays - 0

## **MISCELLANEOUS**

### **City Council Meeting Assignments**

Commissioner McCool will attend the December 17th City Council meeting.

Chair Solomonson stated that he will attend the January 7th City Council meeting for Commissioner Schumer.

Commissioner McCool will attend the January 22nd City Council meeting.

### **2013 Planning Commission Chair & Vice Chair**

Commissioner Schumer nominated Chair Solomonson to serve as Chair for 2013.

Commissioner Ferrington nominated Commissioner Schumer for Vice Chair.

It was the consensus of the Planning Commission to forward these two nominations to the City Council for approval.

## **ADJOURNMENT**

**MOTION:** by Commissioner McCool, seconded by Commissioner Schumer, to adjourn the regular Planning Commission Meeting of December 13, 2012, at 10:55 p.m.

**VOTE:**                      Ayes - 6                      Nays - 0



## Exhibit 2A

**TO:** Planning Commission  
**FROM:** Kathleen Nordine, City Planner  
**DATE:** December 7, 2012

## EXHIBIT 2A

**SUBJECT:** File No. 2470-12-33, Conditional Use Permit – Jarnot, 1000 Oakridge Avenue

### INTRODUCTION

Dennis Jarnot, 1000 Oakridge Avenue, submitted a Conditional Use Permit application to expand a second detached accessory structure on his property. A Conditional Use Permit is needed to exceed the maximum area permitted for both a detached accessory structure and the combined floor area permitted for all accessory structures on a single-family residential property that is greater than 1 acre in size.

### PROJECT DESCRIPTION

The property is located on Oakridge Avenue, east of Hanson Road. This portion of Oakridge Avenue is a private roadway that provides access to several parcels. The property is zoned R-1, Detached Residential as are the adjacent properties. Properties north of Oakridge Avenue are also located in the Shoreland Management District of Turtle Lake.

The property is 1.56 acres in size and has a width of approximately 113' and a depth of about 601'. The property is developed with a two-story single family home that has a foundation area of 1,983 square feet. Accessory structures include an attached 753 square foot garage, a detached 720 square foot garage and 168 square foot storage shed. The detached accessory structures are located in the rear yard.

The Commission should note that the property owner did construct the storage shed years ago without a building permit. The 1993 building permit issued for the home, including the attached and detached garages, stated that no further accessory structures are permitted on the property. At that time, the maximum area permitted for accessory structures on residential property was 1,500 square feet. Because the combined square footage of the attached and detached accessory structure was 1,473 square feet, a third accessory structure was not permitted.

The staff recently became aware of the storage shed through a code enforcement case and informed Mr. Jarnot that the shed was not permitted and would need to either be removed or permitted through the Conditional Use Permit process. Mr. Jarnot has chosen to seek a Conditional Use Permit and is proposing to expand the structure and relocate it on the property. The storage shed would be expanded by constructing a 616 square foot addition (22' x 28') which would adjoin the south building wall. The total area for this building would increase to 784 square feet.

The Conditional Use Permit is requested to exceed the 288 square foot maximum floor area permitted for a second detached accessory structure and the maximum 1,200 square foot floor area permitted for all accessory buildings on the property. The existing attached garage (753 square feet) and an existing detached accessory building (720 square feet) will remain on the property. The combined floor area proposed for all the accessory buildings (attached and detached) increases to 2,257 square feet with the combined area of the detached accessory structures being 1,537 square feet. On lots larger than one acre, the floor area of accessory structures may be increased with the approval of a Conditional Use Permit. Please see the attached plans.

### **DEVELOPMENT CODE**

The accessory structure regulations were revised in 2006 and stricter standards were created to ensure the compatibility of these structures with surrounding residential uses. On parcels 1 acre or larger in size, accessory structures may exceed the maximum allowable square footage permitted as a Conditional Use Permit provided certain standards are met. The maximum area permitted for a second detached accessory structure and the total of all detached accessory structures is 288 square feet. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive.

Said structures shall be setback a minimum of 5 feet from a side lot line and 10 feet from a rear lot line. The maximum height permitted for detached accessory structures is 18 feet as measured from the roof peak to the lowest finished grade; however in no case shall the height of the structure exceed the height of the dwelling unit. In addition, sidewalls cannot exceed 10 feet and interior storage areas above the main floor cannot exceed an interior height of 6 feet.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

### ***Conditional Use Permit***

Conditional uses are uses that are generally compatible with uses permitted in the particular zoning district but may pose some concerns. These concerns are addressed by establishing standards for the use and allowing them through a permitting process that requires a public hearing. Conditions may be attached to the permit to address the impacts said use may have on surrounding properties. If the proposed conditional use satisfies the conditions of the ordinance, then generally, the landowner is entitled to the permit. These permits "run with the land" and remain in effect as long as the conditions

of the permit are observed. If the landowner violates the terms of the permit, the permit can be revoked by the City Council after notice is given and a hearing held.

Standards have been adopted for accessory structures that exceed the maximum areas permitted in the Development Code. These standards included in Attachment A. The proposed use must also be in harmony with and conform to the Comprehensive Plan policies and Development Code standards.

### **APPLICANT'S STATEMENT**

The applicant states that the storage building will be used to store personal items such as seasonal vehicles, lawn equipment, snowmobiles, a boat and other items. It will not be used on a daily basis. The number of detached accessory structures will remain at 2 and the proposed design, including the stucco finish is consistent with the home. Other properties in Shoreview that are of a similar size have accessory structures that exceed the maximum area permitted.

### **STAFF REVIEW**

The proposal was reviewed in accordance with the standards identified in the Development Code.

#### **Comprehensive Plan**

The property is guided for low-density residential uses. In general, accessory structures are permitted on residential properties provided certain standards are met. The applicant has indicated that the structure will be used to house personal property related to the residential use of the property. These items include lawn related equipment and tools, snowmobiles, boat, etc. The existing detached garage is also used for personal property and includes collector automobiles. The structure will not be used for commercial or business related activity.

While the combined size of all the accessory structures exceed the area of the home, these structures do not appear to be the dominant use of the property. The existing single family home remains the primary feature on the property due to the size, style and location of the home. In addition, the residential character of the property is maintained because of the property's large lot size.

This use is consistent with the residential use of the property and neighborhood.

#### **Development Code – Conditional Use Permit Standards**

The proposed accessory structure complies with the location, height, design and setback requirements for a second detached accessory structure. Access to the structure will not occur or be needed on a daily basis.

The standards also require the accessory structure to be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof. Due to the placement of the structure in the rear yard, visibility will be limited to adjoining properties. Two trees will need to be removed for the structure's construction and do not require replacement because they are not considered landmark

trees. The existing vegetation along the side property line will be retained and aid in screening the structure from the adjacent properties. The visual impact of the structure on adjoining properties will be mitigated through the retention of the existing vegetation, size of the property, distance from nearby homes and location in the rear yard.

### **PUBLIC COMMENT**

Property owners within 350' of the property were notified of the application. Comments in support of the request have been received.

### **RECOMMENDATION**

A Conditional Use Permit may be granted provided the proposed use is listed as a conditional use for the district in which it is located and upon showing that the standards and criteria of the Development Code are satisfied. Again, the criteria for a Conditional Use Permit includes; the use is in harmony with the general purposes and intent of the Development Code and Comprehensive Plan, that the structure/land use conforms with the Comprehensive Plan, the use is compatible with the existing neighborhood and the development standards are met. An accessory structure of this size is compatible with the neighborhood provided the Conditional Use Permit standards are adhered to. Staff is recommending the Planning Commission recommend the City Council approve the Conditional Use Permit subject to the following:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The existing vegetation along that portion of the side property line adjacent to the proposed structure must remain and be maintained.
3. A minimum setback of 10-feet is required from the adjoining side property line.
4. The exterior design and height of the structure shall be residential in scale and be consistent with the existing single family home. The height of the structure as measured from the lowest ground grade to the peaks shall not exceed 18'. The exterior sidewalls shall not exceed 10' in height and any interior storage area above the main floor shall not exceed 6' in height.
5. The structure shall be used for storage purposes of household and lawn supplies and equipment. The structure cannot be used as a residence.
6. The structure shall not be used in any way for commercial purposes.

#### **Attachments:**

1. Attachment A
2. Location Map
3. Applicant's Statement and Submitted Plans
4. Comments received
5. Motion Sheet

# ATTACHMENT A

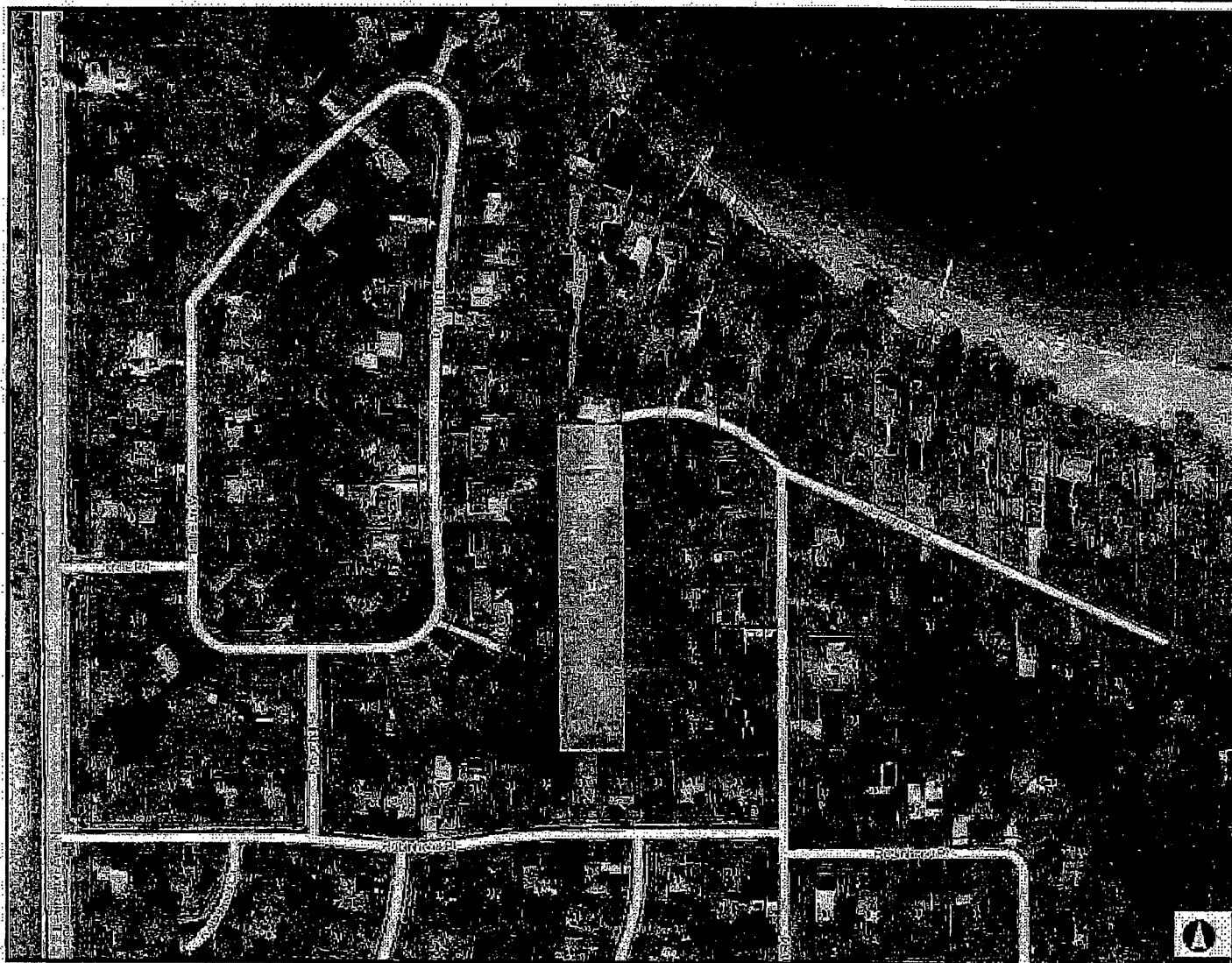
- (1) The accessory structure shall be located in the rear yard of the property except as otherwise permitted by this ordinance.
- (2) The accessory structure shall be setback a minimum of 10 feet from the side property line and 10 feet from the rear property line; however, the City may require greater setbacks to mitigate impacts on adjoining properties.
- (3) For parcels 1 acre or larger in size, the lot shall have a minimum area of 1 acre above the ordinary high water line of a lake, ponding area or wetland on the property.
- (4) The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
- (5) The structure shall comply with the standards of Section 205.082(D)(5) of this ordinance.

## *Conditional Use Permit Criteria*










Certain land uses are designated as a conditional use because they may not be suitable in a particular zoning district unless conditions are attached. In those circumstances, conditions may be imposed to protect the health, safety and welfare and to insure harmony with the Comprehensive Plan.

In addition to the standards identified above, the City Council must find that the use complies with the following criteria.

- (1) The use is in harmony with the general purposes and intent of the Development Ordinance.
- (2) The use is in harmony with the policies of the Comprehensive Guide Plan.
- (3) Certain conditions as detailed in the Development Ordinance exist.
- (4) The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.



### Legend

-  County Offices
-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcels

```
GISRASTER.GISPUB.IMAGE
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High: 255

Low: 0

## Notes

Aerial Map - File No. 2470-12-33

539.3	0	269.65	539.3 Feet
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NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division

This map is a user-generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Dennis Jarnot  
1000 Oakridge Ave  
Shoreview Mn 55126

November 13, 2012

Proposed Accessory Building: 1000 Oakridge Ave

House foundation 1983 Sq Ft- Attached Garage 753 Sq Ft- Detached Garage 720 Sq Ft  
plus new Detached Garage 784 (two combined total 1537 sq ft) 1.56 acres

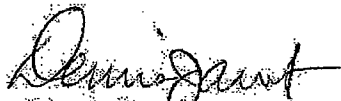
This storage building would be for personal use to store seasonal vehicles and additional items such as lawn equipment, snowmobiles, boat and other items. It is not used everyday and it meets the maximum requirements of having only two accessory buildings.

This building would be of like appearance of house and would be comparable to other projects approved by city of similar size lots.

Example:

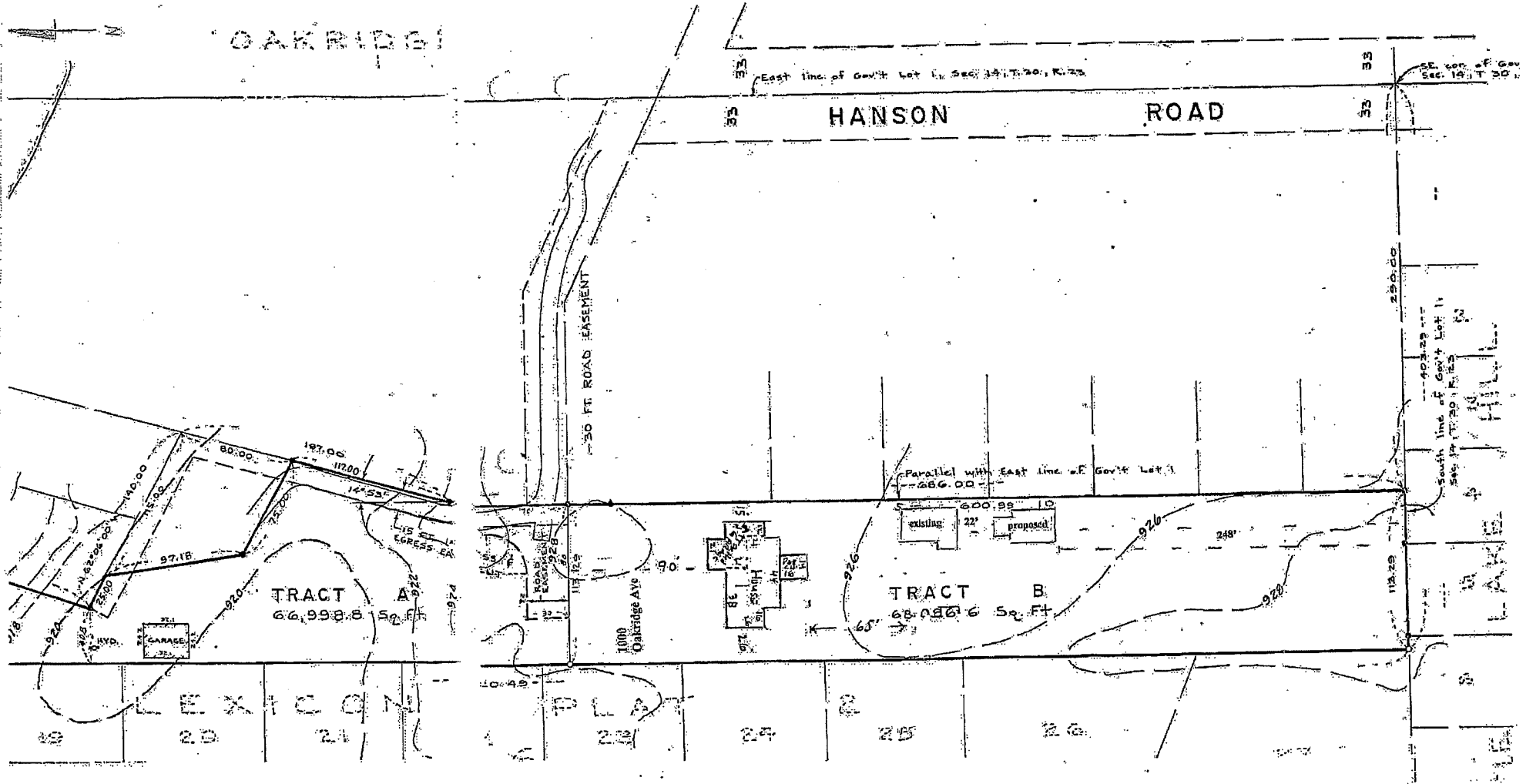
1451 Cty Rd 1- House foundation size 1480 Sq Ft- Attached Garage 440- Detached  
Garage 1500 Sq Ft 1.84 acres

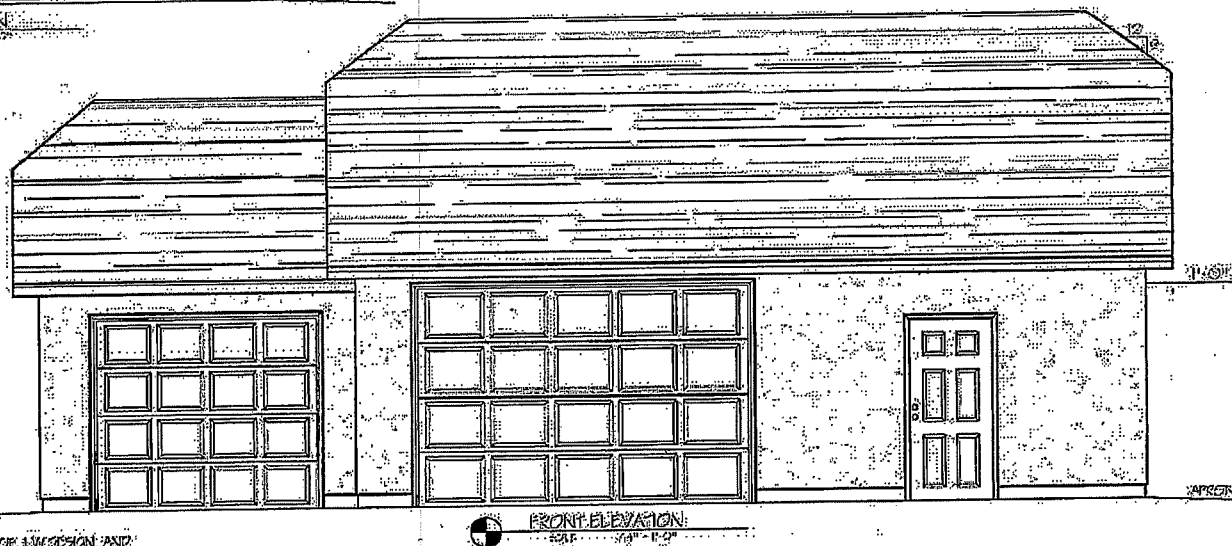
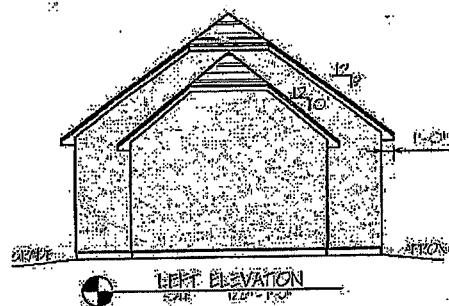
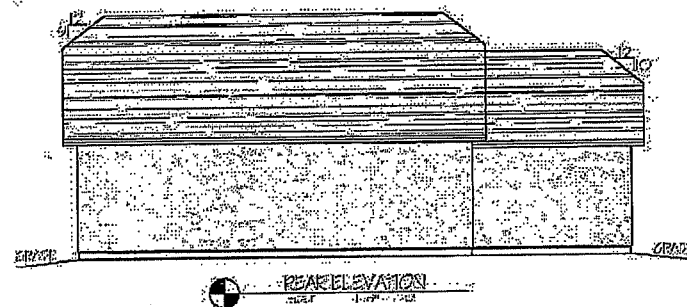
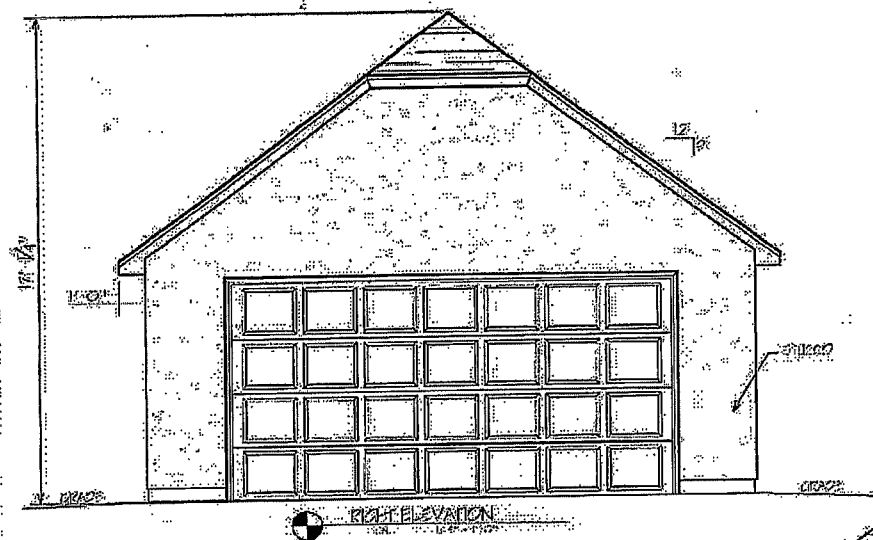
4151 Rice Street- House foundation size 2160 Sq Ft- Attached Garage 2160 Sq Ft  
Detached Garage 1440 Sq Ft 1.87 acres

  
Dennis Jarnot



OAKRIDGE





THESE PLANS AND PRINTS REMAIN THE EXCLUSIVE PROPERTY OF J.W. DESIGN AND MAY BE USED BY OTHERS ONLY FOR THE PURPOSE SPECIFICALLY AUTHORIZED BY J.W. DESIGN. UNAUTHORIZED COPYING OR REPRODUCTIONS OF ANY PORTION IS PROHIBITED.

NOTES: ALL DIMENSIONS ON THESE PLANS SHALL HAVE PRECEDENCE OVER ALL SCALED DIMENSIONS. SUGGEST CORRECTIONS TO ANY DIMENSIONS OR CONDITIONS OF THE PLANS BEING DRAWN.

*J.W. Design*  
J.W. DESIGN  
1000 S. 10TH AVE.  
SUITE 100  
TAMPA, FL 33606  
(813) 288-1000

DESIGNED BY  
J.W. DESIGN  
1000 S. 10TH AVE.  
SUITE 100  
TAMPA, FL 33606  
(813) 288-1000

DRAWN BY  
J.W. DESIGN

DATE:  
10/12

SHEET  
1 OF 1

22'

28'

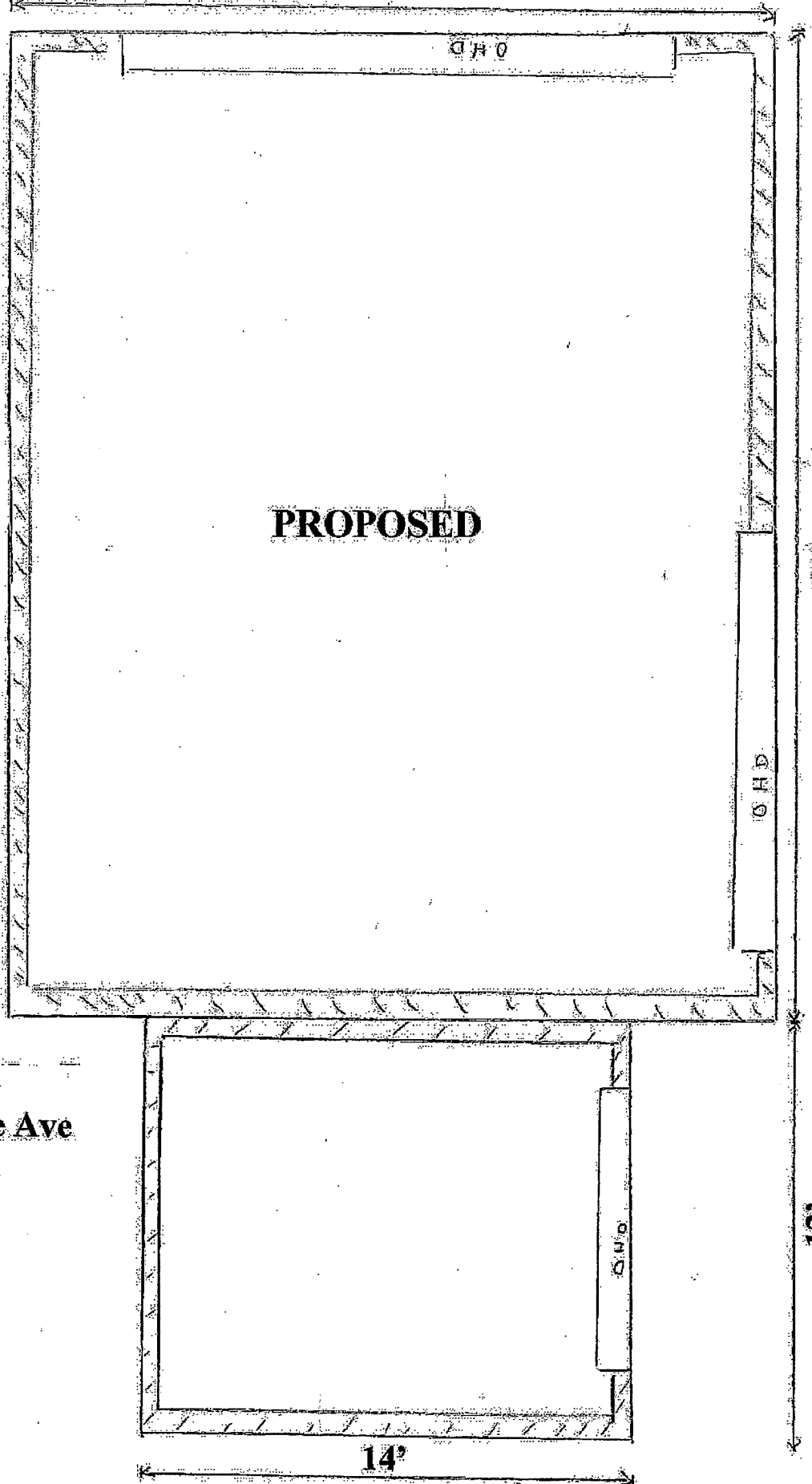
12'

**PROPOSED**

**Dennis Jarnot  
1000 Oakridge Ave  
Shoreview Mn**

1/9" = 1' E&S

14'



Comments:

I have no objections

Name:

Address:

Virgil Sauer  
4942 Tuttle Lane

2012 planning case file 2470-12-33 jamot neighborhood survey

RECEIVED

DEC 05 2012

Comments:

Y:

I do not have any objection to Dennis Jarrot  
Adding To his present Building.

4962 Turtle Ln E

Shoreline WA 98148

Name:

Address:

2012 planning case file 2470-12-33 jarrot neighborhood survey

## **MOTION**

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To recommend the City Council approve the Conditional Use Permit submitted by Dennis Jarnot, 1000 Oakridge Avenue, for a second detached accessory structure on the property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The existing vegetation along that portion of the side property line adjacent to the proposed structure must remain and be maintained.
3. A minimum setback of 10-feet is required from the adjoining side property line.
4. The exterior design and height of the structure shall be residential in scale and be consistent with the existing single family home. The height of the structure as measured from the lowest ground grade to the peak shall not exceed 18'. The exterior sidewalls shall not exceed 10' in height and any interior storage area above the main floor shall not exceed 6' in height.
5. The structure shall be used for storage purposes of household and lawn supplies and equipment. The structure cannot be used as a residence.
6. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

**VOTE:**

**AYES:**

**NAYS:**

Regular Planning Commission Meeting

December 13, 2012

t:2012pcc/2470-12-33/pemotion

## Exhibit 2B

## EXHIBIT 2B

11302009 (1 of 2)

Todd Sharkey  
1003 5<sup>th</sup> Street North  
Stillwater, Minnesota. 55082

Sara Bargander  
Code Enforcement Officer  
City of Shoreview  
4600 Victoria Street North  
Shoreview, Minnesota. 55126

Re: City of Shoreview Code Violations for the property located at 1000 Oakridge Avenue

**U.S. POSTAL SERVICE CERTIFIED MAIL NUMBER: 7008 0150 0002 6264 1527**

November 30<sup>th</sup>, 2009

Dear Ms. Bargander,

Please be advised that this letter is to make you aware of two (2) known code violations for the home at 1000 Oakridge Avenue in the City of Shoreview.

1) The home at 1000 Oakridge Avenue is currently setback 89.2 feet from the North property line. At the time of construction, the city standard was 30-feet minimum and 40-feet maximum without a variance. According to city documents, or lack thereof, the property owner has no variance and therefore, is in violation of city code.

2) The property owner of 1000 Oakridge Avenue took responsibility for constructing a roadway across the property located at 4965 Hanson Road in the City of Shoreview without consent of the property owners at the time of construction.

It is my understanding that the construction of a Private Roadway is allowable only through PUD (planned unit development), which requires public notice and public hearings. To the best of my knowledge, the property owner of 1000 Oakridge was granted a permit post-construction by the City of Shoreview, City Planner, Kathleen Nordine.

Please respond within five (5) days, not including the date you received this letter and three (3) days for mailing with your detailed plan of action to correct these violations of City Code.

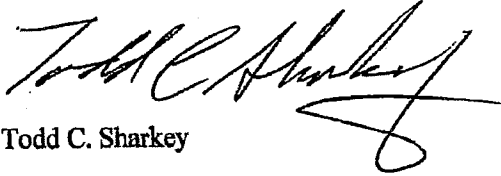
Please be advised, that you are the Code Enforcement Officer, and any response shall only be from you, and no other city staff or city official.



11302009 (2 of 2)

U.S. POSTAL SERVICE CERTIFIED MAIL NUMBER: 7008 0150 0002 6264 1527

Very truly yours,

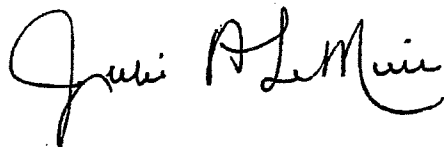


Todd C. Sharkey

cc: Terry Schwerm / City Manager / Responsible Authority  
4600 Victoria Street North  
Shoreview, Minnesota. 55126

Mayor Sandra Martin and Council Members  
4600 Victoria Street North  
Shoreview, Minnesota. 55126

George Altendorfer  
Ramsey County Patrol Division  
1411 Paul Kirkwold Drive  
Arden Hills, Minnesota. 55112

 11/30/2009



## Exhibit 3

# EXHIBIT 3

## SHOREVIEW PLANNING COMMISSION MEETING MINUTES April 30, 2013

### CALL TO ORDER

Chair Solomonson called the April 30, 2013 Shoreview Planning Commission meeting to order at 7:00 p.m.

### ROLL CALL

The following Commissioners were present: Chair Solomonson, Commissioners Ferrington, McCool, Proud, Schumer, Thompson and Wenner.

### APPROVAL OF AGENDA

MOTION: by Commissioner Wenner, seconded by Commissioner Schumer to approve the April 30, 2013 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 7 Nays - 0

### NEW BUSINESS

### VARIANCE - EXTENSION

FILE NO.: 2414-11-07  
APPLICANT: JAMES GRUBER  
LOCATION: 3289 EMMERT STREET

### Presentation by City Planner Kathleen Nordine

In May 2011, a subdivision was approved dividing this property into two parcels. In April 2011, the Planning Commission recommended approval of the minor subdivision with a variance to reduce the required front yard setback to 40 feet. In April 2012, the Planning Commission granted a one-year extension for the variance. The minor subdivision has been recorded. Parcel 2 has sold, and parcel 1 is on the market. The applicant seeks a three-year extension for the variance. Staff believes the time frame is reasonable due to the real estate market, and the fact that the owner has made a good faith effort to sell the property.

Commissioner Wenner noted two spellings for the applicant. The correct spelling is GRUBER.

Commissioner Schumer stated that there is no reason to not approve this request. Ms. Nordine explained that if not approved, the minor subdivision has been recorded as such the vacant lot is of record. Without the variance extension, the required setback may make this lot unbuildable.

**Mr. Jim Gruber**, Applicant, 5545 Alden Avenue, St. Paul, stated that the request is related to the real estate market and the time it is taking to sell this lot.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to extend the variance approved for Parcel 1 (3308 Victoria Street) reducing the front yard setback for a future home on the property to 40 feet. The subdivision and Resolution have been recorded at Ramsey County and the property is being marketed for sale. Said extension is for a three-year period to April 26, 2016. Conditions attached to the variance approval shall remain in effect.

**VOTE:** Ayes - 7 Nays - 0

**PUBLIC HEARING - CONDITIONAL USE PERMIT/VARIANCE**

**FILE NO.:** 2481-13-08  
**APPLICANT:** THOMAS & LINDA RITCHIE  
**LOCATION:** 5186 LEXINGTON

**Presentation by City Planner Kathleen Nordine**

The application is to reconstruct a detached garage on the property. The subject garage is larger than the maximum size permitted. The property is greater than one acre. The intent of the Conditional Use Permit is to review the proposal in terms of the Development Code standards and consistency with the Comprehensive Plan. The variance is to maintain the existing 4.5-foot setback from the side property line.

The property is zoned R1, Detached Residential and in the Shoreland Management District of Turtle Lake. The lot consists of 1.05 acres with a width of 56 feet. It is developed with a single-family home of 2,250 square feet and an attached garage of 616 square feet. The detached garage they are seeking to rebuild is 735 square feet.

The Development Code provides that accessory structures on parcels greater than one acre may exceed the maximum area permitted with a Conditional Use Permit. The existing detached garage would be demolished and rebuilt using the current concrete foundation and changing the roof from a lean-to style to a pitched roof. The exterior would be consistent with the house. Existing vegetation along the property line would be maintained.

Staff finds that the proposal complies with the location, height, design and screening requirements for a detached accessory structure. It is consistent with the Development Code and Comprehensive Plan. There is reasonable difficulty with the narrow lot width. The character of the neighborhood would not be impacted.

Notices were sent to property owners within 350 feet. One response was received in support of the project. The Building Official has noted that fire rated construction is required. Staff is recommending the public hearing; approve the variance, and forwarding the application to the City Council with a recommendation for approval.

Commissioner McCool asked if it would be possible to have a 10-foot setback from the property line. Ms. Nordine answered that would not be possible because of the second detached accessory structure.

City Attorney Filla stated that he has reviewed the public notices, and the public hearing is in order at this time.

Chair Solomonson opened the public hearing.

**Mr. Tom Ritchie**, Applicant, stated that the new garage will be parallel to the second accessory structure. The view of neighbors will not change. He has talked to his neighbor about the best way to build the new structure. The garage needs to be replaced because of the water damage.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Wenner to close the public hearing.

**VOTE:**                      Ayes - 7                      Nays - 0

Commissioners commented on the fact that this application will be a good improvement to the property and their appreciation for the consultation with the neighbor.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to adopt Resolution 13-39 approving a variance to reduce the 10-foot side yard setback to 4.5 feet and recommend the City Council approve the Conditional Use Permit submitted by Thomas and Linda Ritchie, 5186 Lexington Avenue, to reconstruct a detached accessory structure on their property, subject to the following conditions:

1. Approval of the conditional use permit is subject to approval of the variance to maintain the existing 4.5-foot setback from the side property line.
2. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
4. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
5. The applicant shall obtain a detached accessory structure permit for the structure.
6. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards pertaining to one-hour fire resistance construction.
7. The structure shall be used for the personal storage of vehicles, recreational vehicles, trailers, household and lawn equipment.
8. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards, as detailed in the Development Ordinance for residential accessory, are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.
5. Practical difficulty is present as outlined in Resolution 13-39 approving a side-yard setback variance.

VOTE:                      Ayes - 7                      Nays - 0

**PUBLIC HEARING - CONDITIONAL USE PERMIT**

**FILE NO.:**                      **2482-13-09**  
**APPLICANT:**                **MICHAEL R. KEENE**  
**LOCAITON:**                 **5345 HODGSON ROAD**

**Presentation by Senior Planner Rob Warwick**

This application for a conditional use permit is to exceed the maximum area permitted for a detached accessory structure in order to build a new garage measuring 28 feet by 40 feet, or 1,120 square feet. The combined floor area for all accessory structures would be 1,750 square feet, which exceeds what is allowed by Code without a Conditional Use Permit.

The property consists of 2.59 acres with a lot width of 100 feet. It is zoned RE in the Shoreland Overlay District of Turtle Lake. It is developed with a single-family home with an attached two-car garage. The home is 1,685 square feet; the attached garage is 624 square feet. The driveway off Hodgson Road is shared with two other adjoining lots.

Code allows a detached garage of 750 square feet or 75% of the dwelling unit foundation area, whichever is more restrictive. The proposed new garage would be 1,120 square feet or 66% of the foundation area of the home. The combined area would be 1,744 square feet, which exceeds the more restrictive of 1,200 square feet or 90% of the foundation area allowed.

Staff finds that the proposal complies with conditional use permit criteria. The principal structure will remain visually dominant due to the lot size, the dwelling size and the location of the garage. The proposed new detached garage will be 200 feet from the home. Staff is recommending a landscaping plan to be approved prior to a building permit. The proposed new garage will be 17 feet from the south property line. Existing vegetation on the north will mitigate visual impact.

Notices were sent to property owners within 350 feet. One comment was received in support of the application. Staff recommends forwarding the proposal to the City Council for approval with the conditions listed in the staff report.

Commissioner McCool expressed concern about screening and asked what landscaping staff is recommending. Mr. Warwick responded that the screening is good between Hodgson Road and the structure. Staff would like to see added screening to the north to break up the mass of the building seen from nearby homes.

Commissioner Ferrington asked the reason for the proximity of the proposed garage to the driveway. Mr. Warwick explained that topography is the issue. More complicated grading would be needed to move the location.

City Attorney Filla stated that proper notice has been given for the public hearing.

Chair Solomonson opened the public hearing. There were no comments or questions.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to close the public hearing.

VOTE: Ayes - 7 Nays - 0

Commissioners expressed their support of the project and stated that concerns about landscaping, placement of the new structure and size had been addressed.

Commissioner McCool expressed some concern about the total floor area of all garages at 103% of the house foundation area. He stated that he can support the project because of the distance between the garage and the house.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to recommend the City Council approve the Conditional Use Permit submitted by Michael Keene, 5345 Hodgson Road, to construct a detached garage on the property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and finish of the garage shall be compatible with the dwelling.
3. A minimum setback of 10 feet is required from the side property line.
4. The applicant shall obtain a building permit for the structure.
5. The applicant shall submit a final site grading plan and a landscape plan for approval by the City Planner prior to issuance of a building permit for the detached garage.

6. The project is subject to the permitting requirements of the Rice Creek Watershed District. The applicant shall obtain the necessary RCWD permit prior to issuance of any City permits for the project.
7. The structure shall be used for storage of household and lawn supplies, vehicles and equipment.
8. The structure shall not be use in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in keeping with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards, as detailed in the Development Ordinance for a residential accessory, are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE:                      Ayes - 7                      Nays - 0

### **APPEAL**

**FILE NO.:**                2483-13-10  
**APPLICANT:**          MICHAEL MORSE  
**LOCATION:**             1648 LOIS DRIVE

#### **Presentation by City Planner Kathleen Nordine**

The applicant is appealing an administrative decision to not process an application that was previously submitted and denied. This application for a variance is the same or substantially the same as the one previously denied. City Code requires a six-month time period before an application can be resubmitted. Section 202.010 (C) specifically states that, "No application for the same or substantially same request shall be made within six months from the date of denial."

The applicant submitted an application for four variances, which were denied December 17, 2012. The applicant appealed the Planning Commission decision to the City Council. The City Council denied the appeal on February 4, 2013.

The applicant states that the application should be processed because changes have been made to the proposal:

1. The size of the structure has been reduced from 1100 square feet to 959 square feet.
2. The height has been reduced from 15 feet to 14 feet.
3. The length of the structure was reduced from 50 feet to 43.5 feet.



A variance is no longer required for height, as the height is less than the house. Also, the proposed garage is smaller than those of some neighbors. Placement of the garage is in the same location as the old garage as shown by submitted photographs, which is 2.5 feet from the side property line.

Staff believes the plan and variances requested are substantially the same as the previous application. The required variances are the same or substantially the same: 1) exceed the maximum area allowed; 2) exceed the maximum combined area for accessory structures; and 3) reduce the required 5-foot setback from the side property line to 2.5 feet. Staff recommends denial of the appeal.

**Mr. Michael Morse**, 1648 Lois Drive, Applicant, stated that part of the denial is based on character of the neighborhood. His proposed change of 957 square feet is 3 square feet smaller than an existing garage six houses to the east. That garage is larger than the existing home. He is trying to resolve all issues to move forward.

Commissioner Ferrington asked about plans for a new addition to the home. Mr. Morse stated that he has been told that would have no bearing on the current application. Commissioner Ferrington suggested completing the addition first.

Ms. Nordine stated that a variance would still be needed even if there was an addition on the house.

Commissioner McCool stated that the essence of the application is the same--a structure that is larger than allowed and too close to the property line. The same variances are being requested.

Commissioner Thompson sympathized stating that it is clear the applicant is making an effort to make his proposal more acceptable for a variance. She asked if staff sought the advice of the City Attorney regarding the interpretation of "substantially the same." City Attorney Filla answered, yes, and stated that briefs for the pending legal action are due May 15, 2013. He would not anticipate guidance from the court until June.

Commissioner Ferrington stated that with pending litigation, she does not believe the application should be moved forward.

**MOTION:** by Commissioner Proud, seconded by Commissioner Wenner to deny the appeal and uphold staff's interpretation that the variance application submitted on March 13, 2013 by Mike Morse, 1648 Lois Drive cannot be processed because the application is the same or substantially the same as his previous variance application, File No. 2468-12-31, which was denied on February 4, 2013, by the City Council. No application for the same or substantially the same request can be made within six months of the date of denial.

**VOTE:**                      Ayes - 7                      Nays - 0

## **MISCELLANEOUS**

### **City Council Assignments**

Commissioners Wenner and McCool will respectively attend the May 6th and May 20th City Council meetings.

### **Workshop**

The Planning Commission will hold a workshop on May 28, 2013, immediately prior to the regular meeting, at 6:00 p.m.

## **ADJOURNMENT**

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to adjourn the meeting at 8:07 p.m.

VOTE:                      Ayes - 7                      Nays - 0

ATTEST:

---

Kathleen Nordine  
City Planner

## Exhibit 3A

**TO:** Planning Commission  
**FROM:** Kathleen Nordine, City Planner  
**DATE:** April 23, 2013  
**SUBJECT:** File No. 2481-13-08, Conditional Use Permit/Variance -- Ritchie, 5186 Lexington Avenue

## EXHIBIT 3A

### INTRODUCTION

Thomas and Linda Ritchie, 5186 Lexington Avenue, are proposing to reconstruct a detached accessory structure on their property. The proposal requires a conditional use permit since the structure exceeds the maximum size area permitted and a variance to maintain the existing setback from the side property line. The intent of the conditional use permit process is to review the proposal in terms of the Development Code standards and consistency with the Comprehensive Plan. A variance or deviation from the development code standards can be granted provided practical difficulty is present.

### PROJECT DESCRIPTION

The property is located on Lexington Avenue and has frontage on the west side of Turtle Lake. The property is zoned RE, Residential Estate as are the properties to the south. To the north are single-family residential properties zoned R1, Detached Residential. The property is also located in the Shoreland Management District of Turtle Lake as are the adjoining parcels that have frontage on Turtle Lake.

The property is slightly over 1 acre in size (1.05 acres) and has a width of 56' along Lexington Avenue and an average depth of 817.61 feet. The property is developed with a single family home that has a foundation area of 2,250 square feet with a 616 square foot attached garage.

An existing 735 square foot detached accessory structure is also located on the property. A building permit was issued in 1957 for this structure which indicates that this structure was to be setback 5 feet from the southern side property line. However, a 1964 survey shows that the structure is setback 4.5 feet from this property line. This structure is one-story and is designed with a lean-to type roof. The applicants have indicated that the structure is beginning to deteriorate and is in need of repair or replacement. There is water intrusion from the roof and siding/wall areas which are not weather tight or rodent proof.

It is their desire to replace the structure with a new garage that complements the architectural design of their home. The proposed structure will utilize the existing foundation and remain the same size and in the same location as the present structure. The roofline would be changed from the lean-to type roof to a pitched roof that is consistent with the home. Please see the attached plans.

## **DEVELOPMENT CODE**

The accessory structure regulations were revised in 2006 and stricter standards were created to ensure the compatibility of these structures with surrounding residential uses. On parcels 1 acre or larger in size, accessory structures may exceed the maximum allowable square footage permitted with a conditional use permit provided certain standards are met. The maximum area permitted for a detached accessory structure is 288 square feet since there is an attached 2 plus car garage on the property. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive.

On riparian lots, detached accessory structures can be constructed on the street side of the dwelling provided a detached accessory structure permit is issued. This permit is reviewed administratively by staff. For the permit to be issued the structure must be setback a minimum of 30 feet from the front property line and not cause a traffic visibility problem. In addition, the proposal needs to be consistent with the general character of the surrounding properties.

Accessory structures must be setback a minimum of 5 feet from a side lot line and 10 feet from a rear lot line. The maximum height permitted for detached accessory structures is 18 feet as measured from the roof peak to the lowest finished grade; however in no case shall the height of the structure exceed the height of the dwelling unit. In addition, sidewalls cannot exceed 10 feet and interior storage areas above the main floor cannot exceed an interior height of 6 feet.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

### **Conditional Use Permit**

Attachment A summarizes the standards which must be met for the conditional use permit to be granted. These standards address location, structure setbacks, screening, and exterior design. In addition, a Conditional Use Permit can only be granted upon the finding that the proposed use is in harmony with and conforms to the Comprehensive Plan policies and Development Code standards.

### APPLICANT'S STATEMENT

The applicant states that the detached accessory building will be used to store personal items such as boats, trailers, dock and lawn equipment. Replacement of the structure is preferred over repair because a new structure can be designed to complement the house using a similar roof line and architectural material. The existing garage slab which is 4.5 feet from the south side property line, would be reused to reduce the loss of vegetation and minimize grade changes.

Relocating the garage to the required 10-foot setback is not desirable due to the narrow width of the lot and the location of the existing driveway. If it is relocated, the driveway may need to be expanded to provide room for vehicular movement. Reconstruction of the garage in the same location addresses the unique circumstances and permits the property to be used in a reasonable manner.

### STAFF REVIEW

The existing structure is considered non-conforming since the size exceeds that which is permitted by right and encroaches upon the minimum 10-foot side yard setback required. A lawful nonconforming structure may be continued through repair, replacement, restoration, maintenance or improvement but not including expansion. The change in the structure's roof design is considered an expansion; therefore, reconstruction of the structure as proposed requires the conditional use permit and variance.

### Conditional Use Permit

The proposal was reviewed in accordance with the standards identified in the Development Code. The following table summarizes the proposal in terms of the Development Code standards.

	Existing	Proposed	Development Code Standard
Area			
Detached Garage	735 sf	735 sf	*288 sf
All Accessory Structures	1,351 sf	1,351sf (60% of dfa)	*1,200 sf or 90% of the dwelling unit foundation area (2,025 sf) – whichever is more restrictive
Setback – side lot line	4.5 ft	4.5 ft**	10 ft
Height			
Roof Peak	11 ft	15 ft	18 ft
Sidewall	10 ft	8 ft	10 ft

Exterior Design		Match existing	Compatible with the residence and be similar in appearance
Screening		Retain existing vegetation	Structure shall be screened from view of public streets and adjoining properties with landscaping, berming or fencing

\*Standard may be exceeded with a Conditional Use Permit

\*\* Variance requested

The proposed structure complies with the City's standards regarding height, exterior design and screening from adjoining properties.

In Staff's opinion the replacement of a deteriorating structure with a new structure that utilizes the same foundation is in harmony with general purpose of the Development Code and Comprehensive Plan policies. The overall size of this structure when combined with all accessory structures is less than 90% of the dwelling unit foundation area, therefore, the dwelling unit will remain the primary feature and use of the property. The new garage will also be designed with a pitched roof and exterior building materials that are consistent with the home.

The applicant indicated that the structure will be used for the storage of personal items such as lawn and garden related equipment, dock parts, trailers and a boat. This use is consistent with the residential use of the property and neighborhood.

### Variance

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. The following summarizes staff's review of the proposal based on the practical difficulty criteria:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The applicants' proposal to reconstruct a dilapidated accessory structure utilizing the existing foundation is reasonable. The re-use of the slab will minimize site disturbance and permit the applicants to retain the vegetation that exists along the southern lot line. The proposed roof design will improve the functionality of the structure by increasing the interior height and providing additional head-room and storage space.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

The location of the structure, driveway and narrow width of the property are unique circumstances which were not created by the property owner. The site plan submitted with the 1957 building permit issued for the structure indicates that the structure was

to be setback 5 feet from the side property line. A survey completed in 1964 found that the structure was actually setback 4.5' from the side property line. The placement of the structure towards the southern side of the property is logical due to the narrow width of the property.

Access to the garage is gained from a driveway off Lexington Avenue that is adjacent to the northern property line. The existing garage is oriented towards the east with the garage doors and access being on the east side of the building. The proposed structure will retain this orientation. Shifting the garage to the north would interfere with the driveway and require additional driveway improvements thereby disturbing a larger area of the site.

The narrow width of the lot is a unique circumstance that also complicates this matter. Detached accessory structures of this size are required to be setback 10' from a side property line, leaving a 36-foot wide area for the structure. The placement of the structure is also affected by the area needed for the driveway. Driveways must be set back 5' from a side property line. When both the structure and driveway setbacks are imposed, it becomes difficult to place a garage on the property in accordance with the code standards.

*3. Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The variance will not alter the character of the neighborhood. The proposed structure will replace an existing dilapidated structure that is in need of repair. Replacement with a new structure in the same location as the existing structure and designed to complement the architectural design of the home will improve the appearance of the property. Other lakeshore properties along Turtle Lake Road have detached garages that are similarly situated.

**PUBLIC COMMENT**

Property owners within 350' of the property were notified of the application. One comment in support has been received.

This request was reviewed by the Building Official. Any structure that is set closer than 5' to the property line must be constructed with a one-hour fire resistance rating. This includes the southern building wall and any projections (eaves) that are within 4' of the property line. Please see the attached email.

**RECOMMENDATION**

The applicant's proposal is consistent with the conditional use permit standards and variance criteria. The proposal satisfies the standards for a conditional use permit because the use is in harmony with the general purposes and intent of the Development Code and Comprehensive Plan. The structure/land use conforms to the Comprehensive



Plan and is compatible with the existing neighborhood. The existing home will remain the primary feature and use of the property.

In Staff's opinion, practical difficulty is also present for the variance. The applicant is proposing to use the property in a reasonable manner since the existing concrete slab will be used and the overall garage design will improve its functionality. The location of the existing garage, driveway access and narrow lot width are unique circumstances. Last, the character of the neighborhood will not be altered as a result of this variance request. Staff is recommending the Planning Commission recommend the City Council approve the conditional use permit and adopt Resolution 13-39 approving the variance subject to the following:

1. Approval of the conditional use permit is subject to approval of the variance to maintain the existing 4.5-foot setback from the side property line.
2. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
4. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
5. The applicant shall obtain a detached accessory structure permit for the structure.
6. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards pertaining to one hour fire resistance construction.
7. The structure shall be used for the personal storage of vehicles, recreational vehicles, trailers, household and lawn equipment.
8. The structure shall not be used in any way for commercial purposes.

Attachments:

1. Attachment A – Conditional Use Permit, Standards for Detached Accessory Structures
2. Resolution 13-39
3. Email – Building Official Steve Nelson
4. Location Map
5. Aerial Photo
6. Applicant's Statement, Submitted Plans and Photographs
7. Comments received
8. Motion Sheet

# ATTACHMENT A

- (1) The accessory structure shall be located in the rear yard of the property except as otherwise permitted by this ordinance.
- (2) The accessory structure shall be setback a minimum of 10 feet from the side property line and 10 feet from the rear property line; however, the City may require greater setbacks to mitigate impacts on adjoining properties.
- (3) For parcels 1 acre or larger in size, the lot shall have a minimum area of 1 acre above the ordinary high water line of a lake, ponding area or wetland on the property.
- (4) The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
- (5) The structure shall comply with the standards of Section 205.082(D) (5) of this ordinance.

## *Conditional Use Permit Criteria*

Certain land uses are designated as a conditional use because they may not be suitable in a particular zoning district unless conditions are attached. In those circumstances, conditions may be imposed to protect the health, safety and welfare and to insure harmony with the Comprehensive Plan.

In addition to the standards identified above, the City Council must find that the use complies with the following criteria.

- (1) The use is in harmony with the general purposes and intent of the Development Ordinance.
- (2) The use is in harmony with the policies of the Comprehensive Guide Plan.
- (3) Certain conditions as detailed in the Development Ordinance exist.
- (4) The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD APRIL 30, 2013**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member introduced the following resolution and moved its adoption.

**RESOLUTION NO. 13-39 FOR A VARIANCE TO REDUCE THE FRONT AND SIDE  
YARD SETBACKS FOR AN ADDITION**

WHEREAS, Thomas and Linda Ritchie, submitted a variance application for the following described property:

Lot 6 of Shifsky's Addition and part of Government Lot 2 of Section 11, Township 30, North of  
Range 23, Ramsey County, Minnesota  
(commonly known as 5186 Lexington Avenue)

WHEREAS, the Development Regulations establish a minimum building setback of 10 feet from a side property line for a detached accessory structure greater than 288 square feet in size; and

WHEREAS, the applicants are proposing to remove an existing nonconforming 735 square foot detached accessory structure on their property but retain the existing foundation; and

WHEREAS, the existing foundation is setback 4.5' from the southern side property line; and

WHEREAS, the applicant has requested a variance to utilize this foundation and retain the 4.5' setback for the construction of a new 735 square foot detached accessory; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests.

WHEREAS, on April 30, 2013 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The applicants' proposal to reconstruct a dilapidated accessory structure utilizing the existing foundation is reasonable. The re-use of the slab will minimize site disturbance and permit the applicants to retain the vegetation that exists along the southern lot line. The proposed roof design will improve the functionality of the structure by increasing the interior height and providing additional head-room and storage space.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

The location of the structure, driveway and narrow width of the property are unique circumstances which were not created by the property owner. The detached garage was constructed in 1957 and setback 4.5' from the side property line. The placement of the structure towards the southern side of the property is logical due to the narrow width of the property. Shifting the garage to the north would interfere with the driveway and require additional driveway improvements thereby disturbing a larger area of the site. In addition, the buildable area for the garage is restricted when the required setbacks are imposed and creates difficulty for access.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The variance will not alter the character of the neighborhood. The proposed structure will replace an existing dilapidated structure that is in need of repair. Replacement with a new structure located in the same location as the existing structure and designed to complement the architectural design of the home will improve the appearance of the property. Other lakeshore properties along Turtle Lake Road have detached garages that are similarly situated.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 5186 Lexington Avenue, be approved, subject to the following conditions:

1. Approval of the conditional use permit is subject to approval of the variance to maintain the existing 4.5-foot setback from the side property line.
2. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
4. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
5. The applicant shall obtain a detached accessory structure permit for the structure.
6. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards pertaining to one hour fire resistance construction.
7. The structure shall be used for the personal storage of vehicles, recreational vehicles, trailers, household and lawn equipment.
8. The structure shall not be used in any way for commercial purposes.

The motion was duly seconded by Member and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 30th day of April, 2013

\_\_\_\_\_  
Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

\_\_\_\_\_  
Kathleen Nordine, City Planner

ACCEPTANCE OF CONDITIONS:

\_\_\_\_\_  
Thomas Ritchie, 5186 Lexington Avenue

\_\_\_\_\_  
Linda Ritchie, 5186 Lexington Avenue

STATE OF MINNESOTA)

Resolution 13-39  
Page 4 of 4

COUNTY OF RAMSEY }  
CITY OF SHOREVIEW }

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 30<sup>th</sup> day of April, 2013 with the original thereof on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to adopting Resolution 13-39.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 30th day of April, 2013.

Terry C. Schwern  
City Manager

SEAL

4/25/13

Shoreviewmn.gov/Mail - CUP 5186 Lexington



Kathleen Nordine <knordine@shoreviewmn.gov>

## CUP 5186 Lexington

Message

Steve Nelson <snelson@shoreviewmn.gov>  
To: "NORDINE, KATHLEEN" <knordine@shoreviewmn.gov>

Wed, Apr 10, 2013 at 11:20 AM

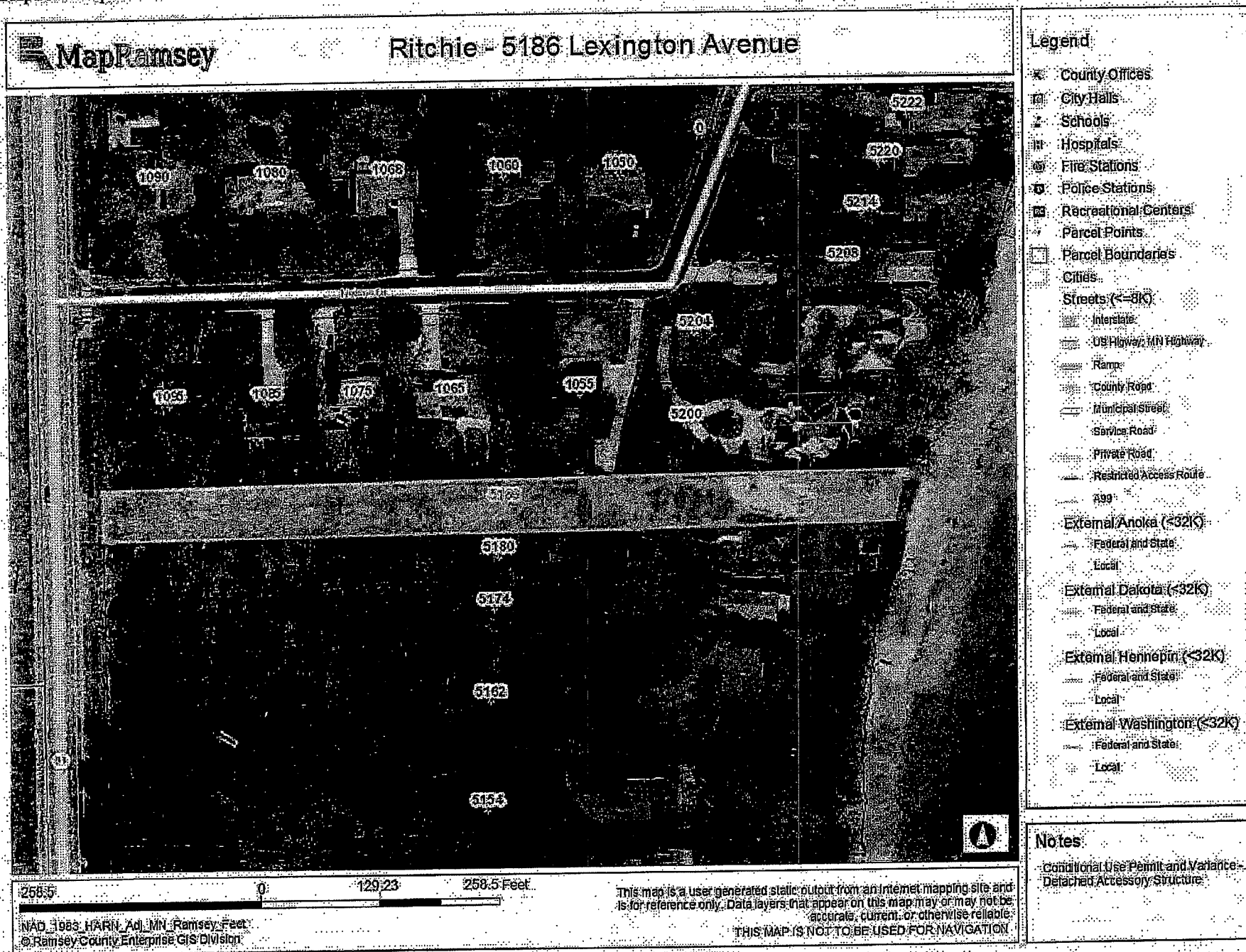
Kathleen:

Reviewing the application for the tear down and rebuild of the structure at 5186 Lexington, I noticed it will be reconstructed at 4.5 feet from the property line. If constructed as proposed, the building requires any structure walls within 5 feet of a property line be of one hour fire resistance construction. The wall must comply with an approved design to meet the one hour rating. Projections (eaves) within 4 feet of the property line must have one hour fire resistance rating on the underside of the projection. No penetrations in the wall are permitted unless they comply with the building code. This does not apply to walls constructed perpendicular to the property line.

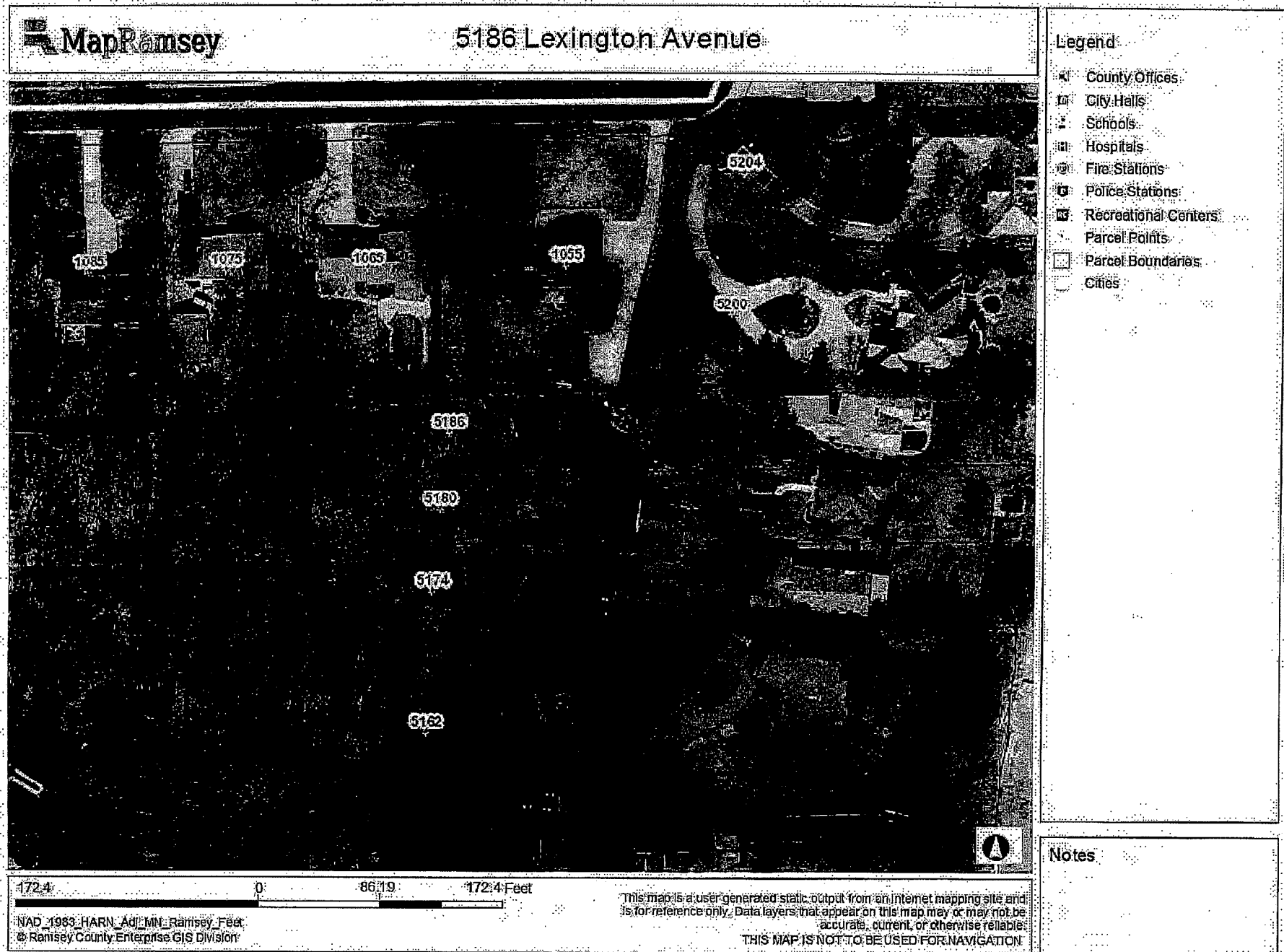
This is a change to what may have been permitted in previous codes. It is not grandfathered once a building is torn down and reconstructed.

Steve

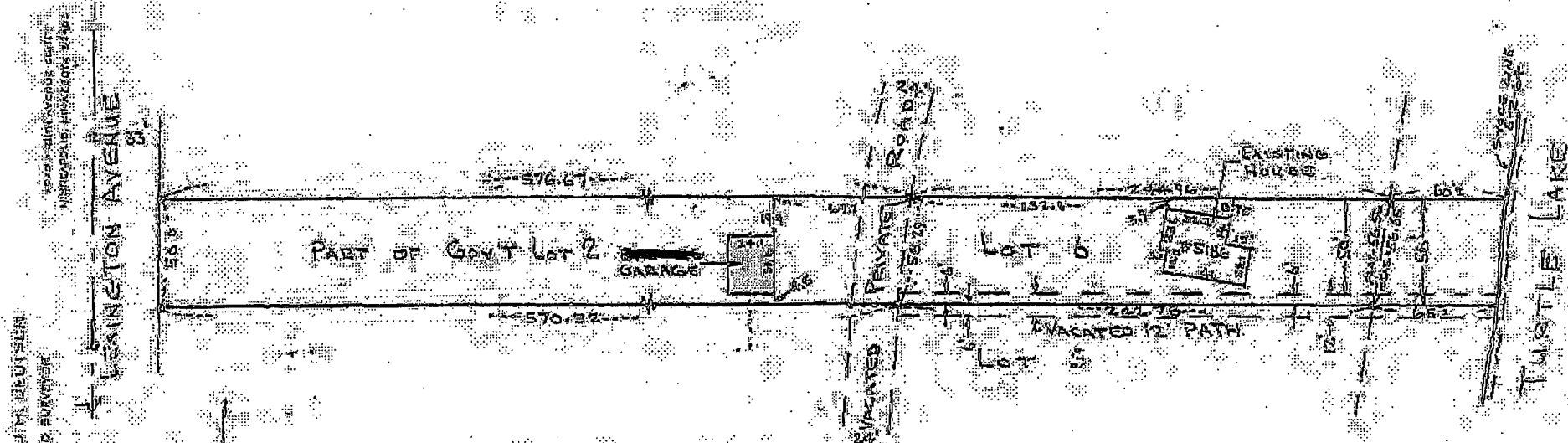
**Steve Nelson**  
Building Official  
City of Shoreview  
4600 N Victoria Street  
Shoreview, MN 55126  
651-490-4691







SURVEY FOR: JERRY COLEMAN  
518 1/2 - N. LEXINGTON AVE.  
ST. PAUL, MINN.



LEGAL DESCRIPTION (recorded in Book 1719 Page 978)

Lot 6 of Schifsky's Addition and that part of Government Lot 2 of Section 11, Township 30 North, Range 23 West of the 1th P. M. which is bounded on the North by the Northernly line of Lot 6 of said Schifsky's Addition extended directly West in a straight line to Lexington Avenue; on the West by the Easternly line of Lexington Avenue; on the South by a line 6 feet South of and parallel to the South line of said Lot 6 extended directly West in a straight line to Lexington Avenue; and on the East by Lot 6 of said Schifsky's Addition and the West end of the Northernly half of the path lying between Lots 5 and 6 of said Schifsky's Addition. Also the North 1/2 of the following described parcel of land to-wit: All that pathway lying between Lots 5 and 6 in said Schifsky's Addition.

I hereby certify that on June 2, 1961, I surveyed the property described above and that the above plat is a correct representation of said survey.

Donald H. Deutsch



SCALE 1"=50'

+ DENOTES IRON MONUMENT

Land off 45.540 Ramsey City Roads  
43.560 acre

## STANDARD VARIANCE APPLICATION 5186 LEXINGTON AVE N

SUBMITTED BY THOMAS AND LINDA RITCHIE

The purpose of our request for variance concerns the 10 foot setback requirement from our lot line in our application to replace our existing 60 year old garage with a new structure on the same sight. This variance request is being submitted in conjunction with a Conditional Use Permit application. Our existing garage is 4.5 feet from the south lot line of our property on the West side of Turtle Lake. The garage has been in place since the lot was developed in the 1950's. The garage is accessory to the residential use of the property and it is used for storage purposes. Items include boats and trailers, dock sections in winter and lawn and snow removal equipment. We believe this is in keeping with your requirement to use the property in a reasonable manner.

Our desire to construct the garage on the existing site is based on the fact that our driveway runs between the existing north wall of the garage and the neighbors to the north fence. There is not enough room to move the structure over 5.5 feet without adding asphalt to the sliver of grass between our existing driveway and the neighbors fence. Our lot is only 56 feet wide. We are conscious of covering the ground with impervious asphalt covering. We feel this meets the unique circumstances criteria of the process.

Our goal is to use the existing garage floor slab to reduce the loss of vegetation and minimize grade changes to the wooded area of our property directly to the west of the proposed structure. Also part of our plans is to remove old creosote covered railroad ties that were installed in the 1950's for landscape decorations. They are rotting and are in need of replacement. We feel it is environmentally sound to replace these rail ties. The proposed replacement structure will match the roof line and siding of our existing home and will match the look of the garage directly parallel to ours. Currently our old garage is somewhat of an eye sore.

Please note the neighbor affected by the variance request is in complete support of our plans and will verify that the proposed placement of the replacement building will not affect his enjoyment of his property.

CONDITIONAL USE PERMIT APPLICATION FOR 5186 LEXINGTON AVE. N.

SUBMITTED BY THOMAS AND LINDA RITCHIE

Our intention is to replace and rebuild our 60 year old detached garage. The location of the replacement building will be on the exact sight of the existing structure. We use the garage as an accessory structure to store boats, trailers, our dock in winter and equipment related to the residential use and upkeep of our property on the West side of Turtle Lake. Such equipment includes lawn tractor and mowers and snow removal equipment.

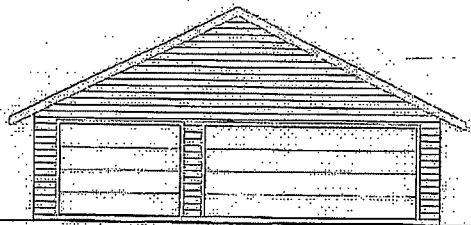
The existing garage was constructed in the 1950's and is in serious need of replacement. The roof leaks and the wood siding is rotting creating gaps in the walls. This allows accumulation of snow melt and rain to form puddles inside of the structure. When the puddles freeze, there is potential for injury by slipping and falling while working in the building. The gaps also allow rodents to nest in the garage during the winter months.

The current building is not an attractive addition to our property. Our intention is to have the replacement structure match the roofline and siding of our existing home which we feel will enhance the look of our property and improve the value our home. The new building will be of the same shape as the garage on our neighbors property parallel to our existing garage. It will blend in to the overall look of the neighborhood.

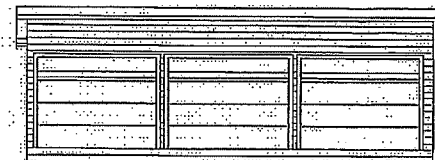
# RITCHIE RESIDENCE

5186 LEXINGTON AVE. NORTH, SHOREVIEW, MN 55126

March 14, 2013

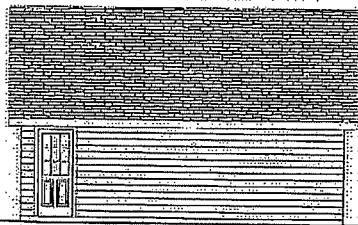


EAST ELEVATION PROPOSED

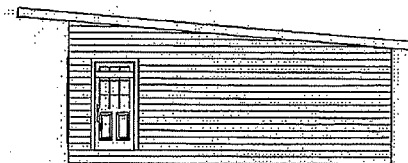


EAST ELEVATION EXISTING

ELEVATIONS  
SCALE: 1/8" = 1'-0"



NORTH ELEVATION PROPOSED

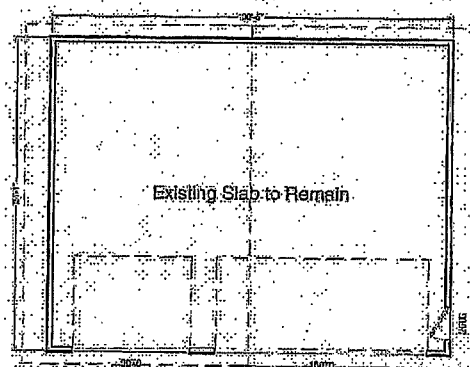


NORTH ELEVATION EXISTING

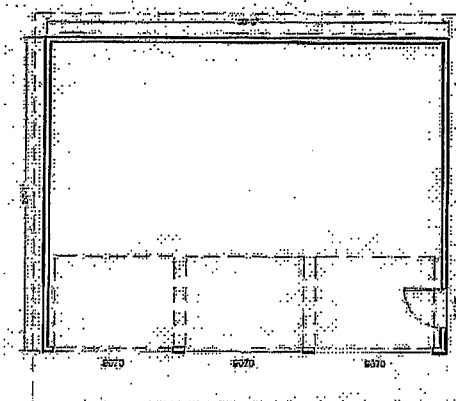
# RITCHIE RESIDENCE

5186 LEXINGTON AVE, NORTH SHOREVIEW MN 55126

March 14, 2013



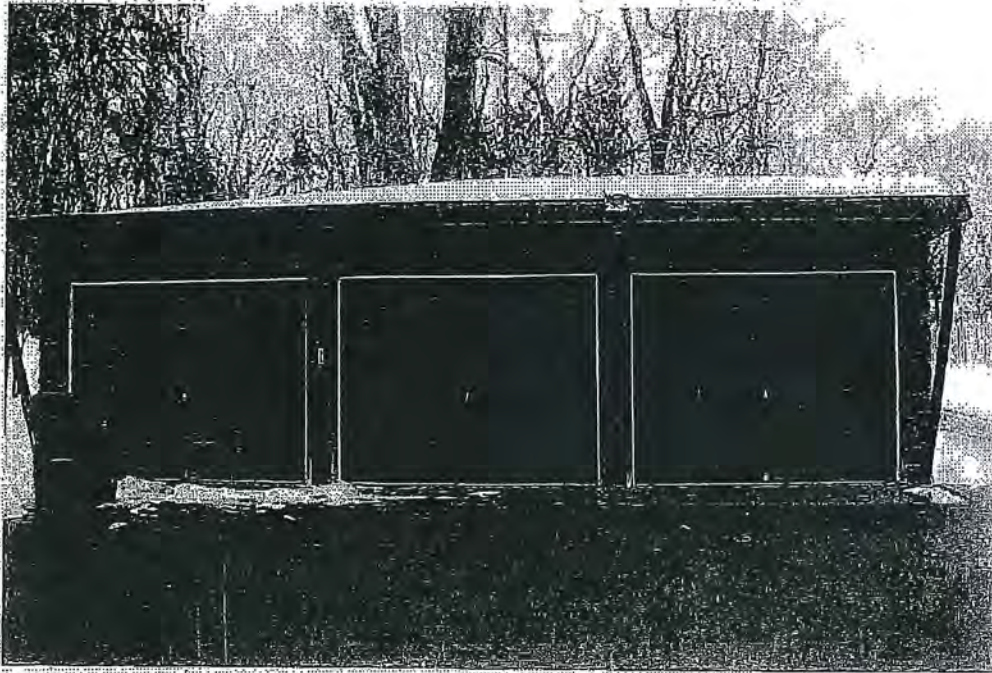
PROPOSED



EXISTING

FIRST FLOOR PLANS  
SCALE: 1/8"=1'-0"

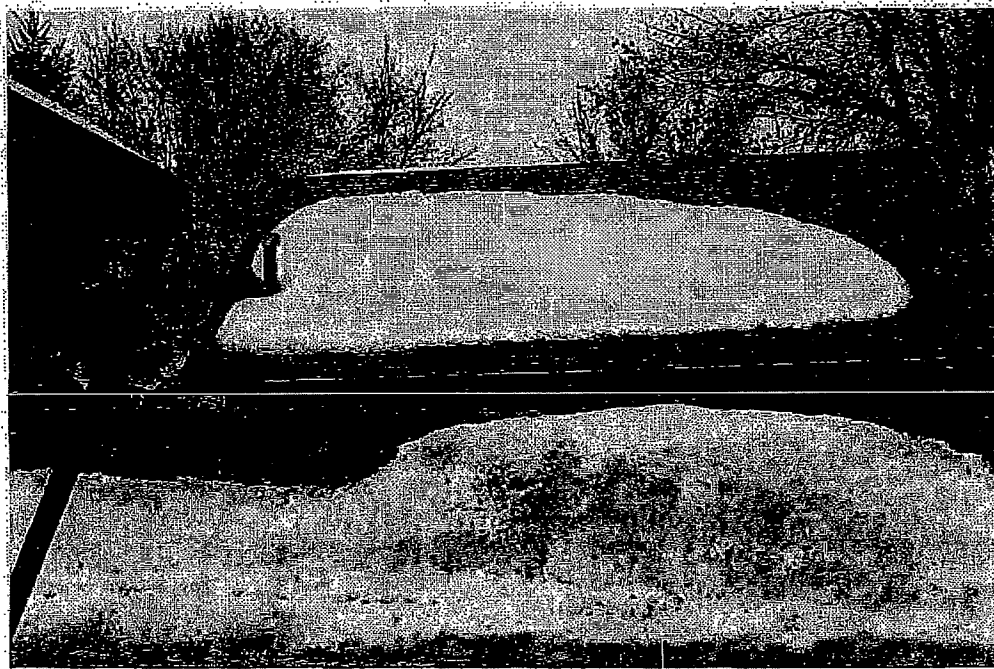




Existing  
garage  
to be  
replaced



Example  
of  
openings in side  
of existing garage.  
Leads to water  
damage and  
rodent nesting.



Neighbor's  
roof line of  
garage - North



Lot line  
neighbor - south  
existing garage  
and neighbor's  
building  
adjacent.



Comments:

We are in total agreement and hereby approve the Tom Ritchie reconstruction of this separate garage. It will solve water problems and enhance the area appearance, while allowing adequate storage space for lake living and 700 feet long driveways. Also a set back variance on our adjoining lot line is agreeable to us.

*Jeffrey L Burnham* 4-18-13

Jeffrey Burnham

*Zora L Burnham* 4-18-13

Zora Burnham

Name:

Address: 5180 N LEXINGTON AVE

SHOREVIEW 55126

**TO:** Planning Commission  
**FROM:** Rob Warwick, Senior Planner  
**DATE:** April 25, 2013

**SUBJECT:** File No. 2482-13-09, Conditional Use Permit – Michael Keene, 5345 Hodgson Road

### **INTRODUCTION**

Michael Keene, 5345 Hodgson Road, submitted a conditional use permit application to construct a detached accessory structure on his property. On single-family residential parcels one acre or larger in size, accessory structures that exceed the maximum allowable square footage are permitted with a conditional use permit. The intent of the conditional use permit process is to review the proposal in terms of the Development Code standards and consistency with the Comprehensive Plan.

### **PROJECT DESCRIPTION**

The property is located on the east side of Turtle Lake. The property is zoned RE, Residential Estate, as are the adjacent properties. The property is also located in the Shoreland Management District of Turtle Lake as are the adjoining riparian parcels.

The property is 2.5 acres and has a width of 100 feet, and so is a standard riparian lot. The property is developed with a single family home that has a foundation area of 1,685 square feet with a 624 square foot attached garage. The house and attached garage is located about 70 feet from the OHW of Turtle Lake and over 950 feet from Hodgson Road. The property shares the long driveway with the two adjoining lots. The applicant proposes to construct a 28- by 40-foot (1120 square foot) detached garage with a peak height of 14 feet. The garage location will be about 230 feet east from the house, 650 feet from the front lot line abutting Hodgson Road and 17 feet from of the south side lot line. On riparian lots, a Detached Accessory Structure permit is required to construct a garage in the front yard. The applicant has submitted an application for this, and that will be reviewed administratively upon conclusion of the CUP review process. Please see the attached plans.

### **DEVELOPMENT CODE**

The accessory structure regulations were revised in 2006 and stricter standards were created to ensure the compatibility of these structures with surrounding residential uses. The maximum area permitted for a detached accessory structure is and the total of all detached accessory structures is 288 square feet since there is an attached 2 plus car garage on the property. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive. On parcels 1 acre or larger in size, accessory structures may exceed the

## MOTION

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To adopt Resolution 13-39 approving a Variance to reduce the 10-foot side-yard setback to 4.5 feet and recommend the City Council approve the Conditional Use Permit submitted by Thomas and Linda Ritchie, 5186 Lexington Avenue, to reconstruct a detached accessory structure on their property, subject to the following conditions:

1. Approval of the conditional use permit is subject to approval of the variance to maintain the existing 4.5-foot setback from the side property line.
2. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
4. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
5. The applicant shall obtain a detached accessory structure permit for the structure.
6. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards pertaining to one-hour fire resistance construction.
7. The structure shall be used for the personal storage of vehicles, recreational vehicles, trailers, household and lawn equipment.
8. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.
5. Practical difficulty is present as outlined in Resolution 13-39 approving a side-yard setback variance.

**VOTE:**

**AYES:**

**NAYS:**

Regular Planning Commission Meeting

April 30, 2013

12013pc12481-13-085186LexingtonAveRitchieymotion

## Exhibit 4

# EXHIBIT 4A

**TO:** Planning Commission

**FROM:** Nicole Hill, Economic Development and Planning Technician

**DATE:** December 6, 2013

**SUBJECT:** File No. 2510-13-37; Request for Variances in the Side Setback and Maximum Allowable Accessory Structure Size, Aleksander Medved -5555 Wood Duck Court

## **INTRODUCTION**

Aleksander Medved has submitted variance applications for the property at 5555 Wood Duck Court. The Variance application requests a reduction to the City standards pertaining to side setback, to 10 feet, and an increase in the allowable size for an accessory structure from 288 square feet to 416 square feet and to exceed the maximum area permitted for all accessory structures. A variance from the development code standards can be granted provided practical difficulty is present.

## **BACKGROUND AND PROJECT DESCRIPTION**

The property is currently being used for single-family residential purposes. The property is located on the northwest corner of the intersection of Wood Duck Court and Lepak Court. The parcel is .35 acres, has a lot area of 15,246 square feet, a lot width of 92.48 feet, and a lot depth of 164.87 feet. Site improvements include the existing home, an attached two-car garage, driveway, and sidewalk areas. The topography of the property is generally level. Adjacent land uses include single-family residential to the north and east, TCAAP marshland to the south across County Road I, and storm water drainage/open space to the west.

The property is developed with a single family home that has a foundation area of 1484 square feet and the attached garage has 816 square feet. An existing 237 square foot concrete slab is located 10 feet from the side property line to the south and 20 feet west of the house. The applicants purchased the house in January 2013, and during the summer constructed a shed using the existing slab as a foundation for a 237 sq ft fully enclosed shed, with roofed area of 416 sq feet. The additional 179 square feet of covered area is open to serve as a sheltered play area. The design is intended to complement the architectural design of their home. Please see the attached plans. A building permit was not obtained, and the City issued a stop work order after receiving a complaint. The applicants were not aware that a permit was needed.

## **DEVELOPMENT CODE**

The accessory structure regulations were revised in 2006 and standards were adopted to ensure the compatibility of these structures with surrounding residential uses. The maximum area permitted for a detached accessory structure is 150 square feet since there is an attached garage that accommodates more than 2 cars on the property. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive.

Accessory structures must be setback a minimum of 5 feet from a side lot line and 10 feet from a rear lot line and, in cases where they are adjacent to a public right of way, the required structure setback is

the setback of the existing house. The maximum height permitted for detached accessory structures is 18 feet measured from the roof peak to the lowest finished grade; however in no case shall the height of the structure exceed the height of the dwelling unit. In addition, sidewall height cannot exceed 10 feet and interior storage areas above the main floor cannot exceed a height of 6 feet.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

### **STAFF REVIEW**

By utilizing the existing slab for the detached accessory structure, it encroaches upon the minimum setback required from a street. The enclosed portion would be permitted by a Conditional Use Permit (CUP) but the total foundation area of the structure size exceeds that which is permitted and, therefore a variance is requested, and if approved a CUP will not be necessary. See the table below.

	Existing	Proposed Enclosed	Proposed Total	Development Code Standard
<b>Area</b>				
Detached Accessory Structure	0 sf	237** sf	416 *sf	288 sf
All Accessory Structures	816 sf	1053 sf	1,232* sf	1,200 sf or 90% of the dwelling unit foundation area (1335.6 sf) – whichever is more restrictive
<b>Setback – side lot line</b>	N/A	10 ft	10 ft*	Adjacent to right of way; same setback as existing house (30.2 feet).
<b>Height</b>				
Roof Peak	N/A	17.5 ft	17.5 ft	18 ft
Sidewall			8 ft	10 ft
<b>Interior Storage Area</b>	N/A	7.5 ft	7.5 ft	6 ft
<b>Exterior Design</b>	N/A	Match existing	Match existing	Compatible with the residence and be similar in appearance
<b>Screening</b>		Retain existing vegetation	Retain existing vegetation	Structure shall be screened from view of public streets and adjoining properties with landscaping, berming or fencing

\* = Variance requested

\*\* = Allowable with a Conditional Use Permit

The applicants had not obtained a building permit prior to construction of the shed and therefore built an interior storage area of 7.5 feet in height. This height must be modified to 6 feet to comply with Development Code regulations. When the building permit plans are reviewed, plans must be submitted that show how the modifications will be made.

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. The following summarizes staff's review of the proposal based on the practical difficulty criteria:

*Reasonable Manner.* The applicants' proposal to construct an accessory structure utilizing the existing slab is reasonable. The re-use of the slab will minimize site disturbance. The retained vegetation that exists along the southern lot line screens the shed from view from the street and trail.

*Unique Circumstances.* Staff agrees that the size and location of the existing slab are unique circumstances which were not created by the property owner. The existing slab is located 10 feet from the side (south) property line and adjacent to a public Right of Way. County Road I was relocated further south in 2004 and Lepak Court was created, leaving an expanded Right of Way along the south side of the property. The right of way is currently developed with a trail and storm pond located between the property and County Road I. The shed is over 80 feet away to the nearest point in Lepak Court, over 150 feet away at its nearest point to County Road I, and more than 20 feet from the trail. The area between the shed and the trail is heavily landscaped, minimizing visibility of the shed when viewed from the street or trail. Placement of a new concrete foundation elsewhere on the property would result in site disturbance and increase the impervious surface coverage. An existing in ground sprinkler system is also present which would be impacted.

The applicant used the existing slab for the enclosed structure and extended the roof further over the grass for a covered play area. The 237 sq ft enclosed structure itself could be permitted with a conditional use permit, but a variance is needed for the area of roof coverage. The foundation area of the structure is defined as *That portion of the lot covered with roofed structures generally measured to the foundation or footings.* The unenclosed area will have grass below, not a foundation or deck. In staff's opinion, additional square footage of the unenclosed portion of the structure, which would be used for a play area and not outside storage, is reasonable. City code treats unenclosed porches differently than enclosed porches and this is of similar use.

*Character of Neighborhood.* The variance will not alter the character of the neighborhood. The proposed structure will complement the architectural design of the home and will the property with added storage and a sheltered play area for their young child.

#### **PUBLIC COMMENT**

Property owners within 350 feet were notified of the applicant's request. One comment was received with no objection to the request.

**STAFF RECOMMENDATION**

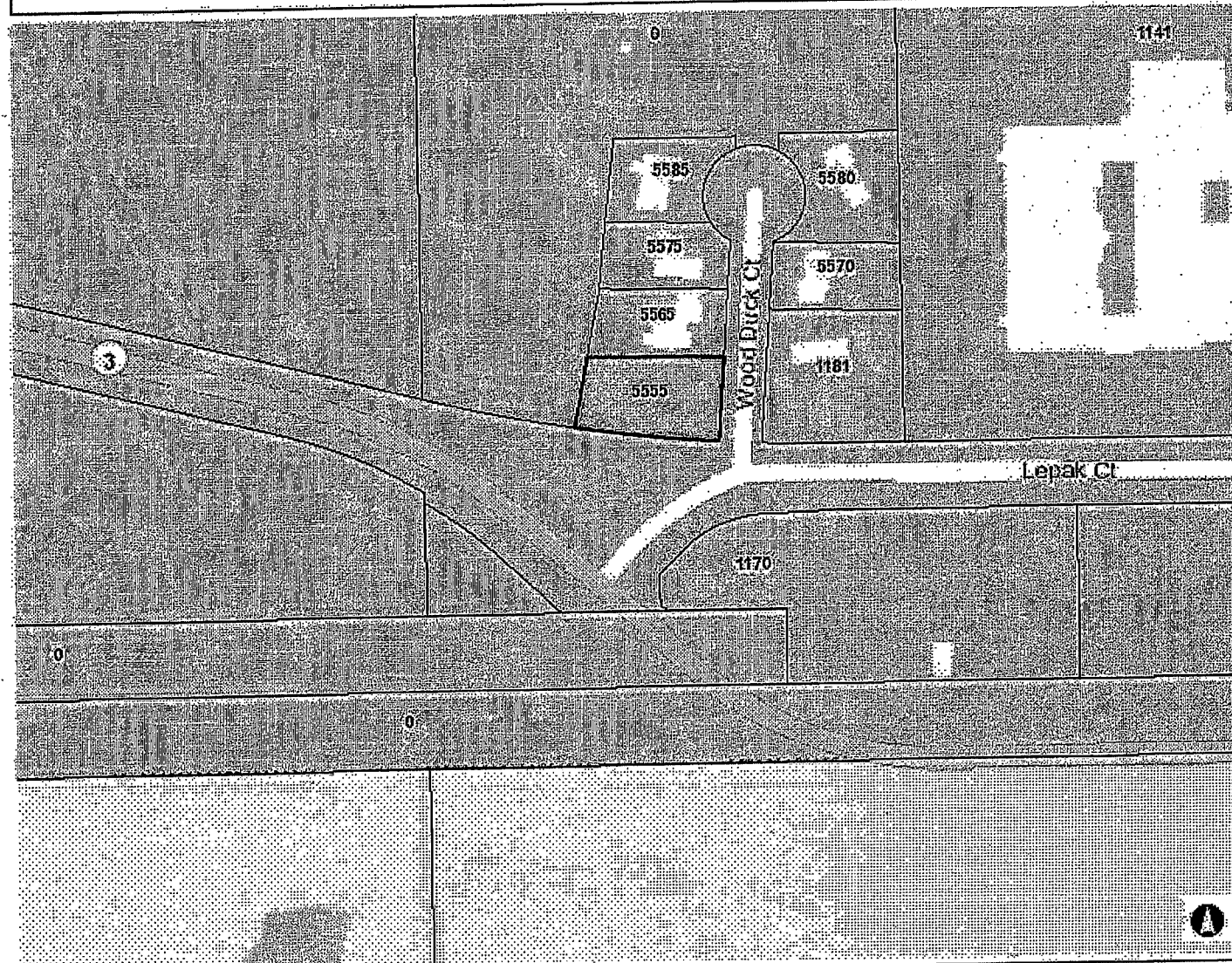
In Staff's opinion, practical difficulty is present for the variance. The applicant is proposing to use the property in a reasonable manner and the shed design does not have an adverse impact. The location of the existing slab and its proximity to the right of way are unique circumstances. Last, the character of the neighborhood will not be altered as a result of this variance request. Staff is recommending the Planning Commission adopt Resolution 13-111 approving the variance subject to the following:

1. The unenclosed play area will not be used for outside storage.
2. The unenclosed area will remain open. No wall system that consists of substantially of screens, windows, and/or doors may be permitted.
3. The interior storage area above the main floor will be modified to comply with development code standards. Plans must be submitted showing how the proposed modification will be made.
4. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
5. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
6. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
7. The applicant shall obtain a building permit for the structure.
8. The structure shall be used for the personal storage of household and lawn equipment.
9. The structure shall not be used in any way for commercial purposes.

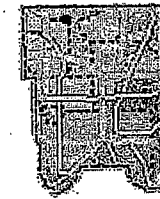
**Attachments**

- 1) Location Map
- 2) Site Aerial Photo
- 3) Submitted Statement and Plans
- 4) Response to Request for Comment
- 5) Resolution 13-111
- 6) Motion





**Legend**



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

343.8 0 171.89 343.8 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division









This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**Notes**

Location Map

**Legend**



-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcel Boundaries

**Notes**

5555 Wood Duck Ct.



171.9      0      85.95      171.9 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**5555 Wood Duck Court  
Shoreview, MN 55126**

**Background of Request**

Homeowners request a variance (or, in the alternative, a Conditional Use Permit) for an accessory shed in the rear yard of the property located at 5555 Wood Duck Ct. The shed will be used for storage of lawn and garden equipment, tools, and other items (e.g., large outdoor children's toys). Prior to construction of the shed, there were no detached accessory structures on the property. The previous owners stored items outside. The shed is constructed on a concrete slab that existed for several years prior to the present homeowners' purchase of the property. The roof of the shed extends over the footprint of the existing concrete slab on two sides, supported by a series of posts. The area under this extending roof is intended as a covered play area for the homeowners' children, in lieu of a separate play structure.

The area of the shed foundation on the existing concrete slab is 237 ft<sup>2</sup>. If the area up to the posts is taken into account, the total area is 416 ft<sup>2</sup>. The shed has 8 ft side walls and maximum height of 17.5 ft, which is below the height allowed by ordinance, and well below the >30 ft maximum height of the primary residence.

There are no neighboring residences to the west or south of the property. The south border is spaced a fair distance from County Road I, and is opposite the open marshland of the TCAAP. The only adjacent neighbor is to the north. There is a 6 ft. privacy fence on the north border of the property. The south border of the property is screened by a 145 ft landscape bed of trees and shrubs, within which a 60 ft bank of closely-planted evergreen trees (approximately 19 ft tall) screens the area adjacent the shed. The landscaping almost entirely screens the shed from view from the south in the winter, and entirely screens the view in the summer. Two large willow trees on the southwest corner of the property entirely screen the shed from view from the west. Therefore, the shed is generally not visible from either County Road I or Lepak Court.

The shed is designed to complement the residence, including matching architectural shingles on the roof. The roof pitch matches the roof pitch of the primary residence.

Homeowners believe the present request is consistent with objectives (A)-(L) of City Code Section 201.010, and also with the City's Comprehensive Plan.

Homeowners address the remaining City criteria below:

### Practical Difficulties

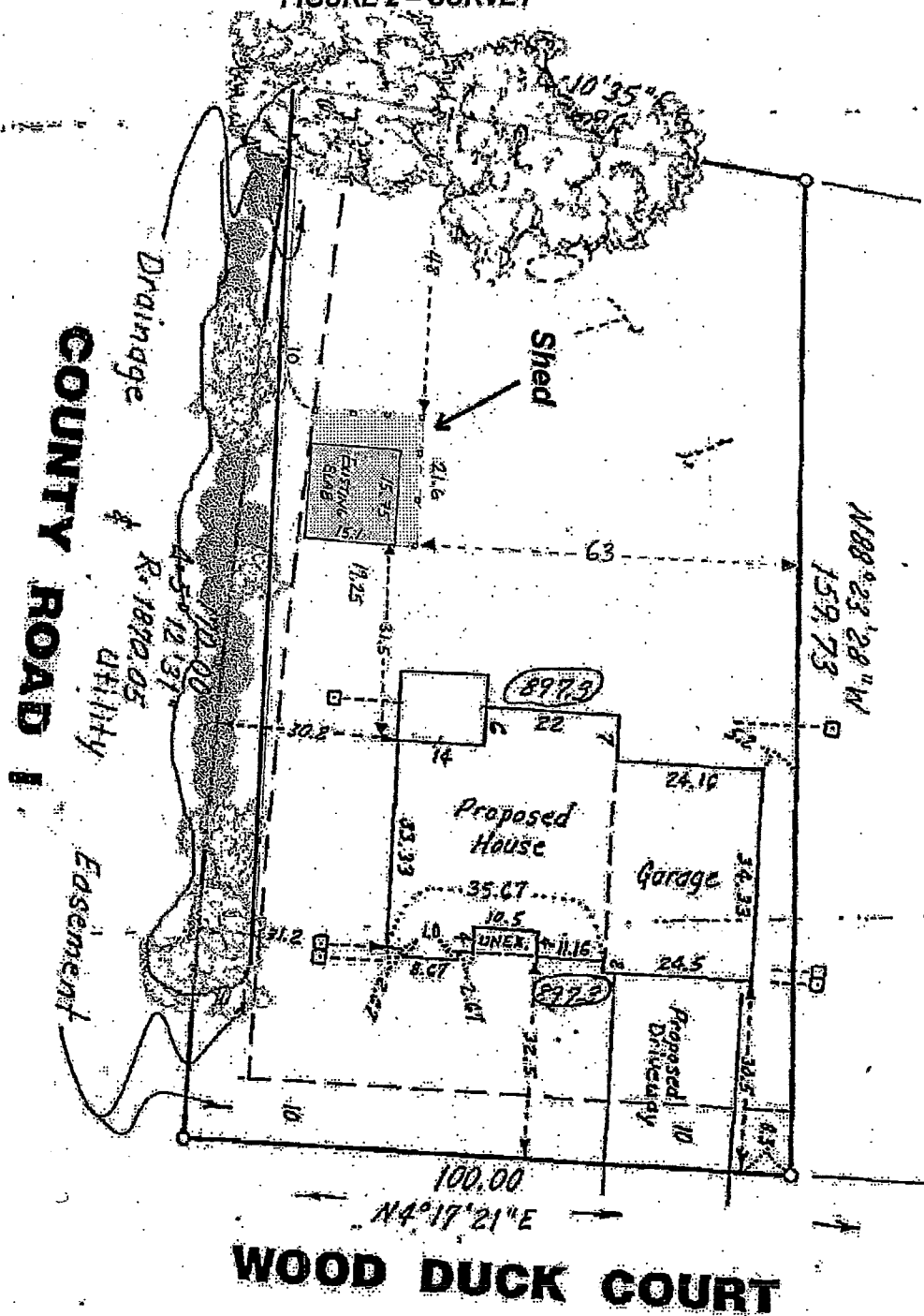
*(The application for a variance shall establish that there are practical difficulties in complying with the provisions of the Shoreview Development Regulations.)*

- (i) Reasonable Manner. *The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The shed will be used for storage of lawn and garden equipment, tools, and other items (e.g., large outdoor children's toys). A portion of the shed exterior will be a covered play area for the homeowners' children. These uses are reasonable and consistent with a residential purpose.*
- (ii) Unique Circumstances. *The plight of the property owner is due to circumstances unique to the property not created by the property owner. A preexisting concrete slab on the property dictated the size and location of the shed. Homeowners note that placement of a shed elsewhere in the rear yard (for example, along the north border) would have required construction of a separate foundation. Homeowner is concerned that a separate foundation may have increased the impervious surface of the property beyond City requirements, which would have required costly removal of the preexisting slab. Additionally, piping for an extensive in-ground sprinkler system was already routed around the preexisting concrete slab, such that no alterations were necessary. Further, a shed located along the north or west borders would be in view from County Road I and also in the sight line of the adjacent property to the north. Homeowners also note that the primary foundation of the shed is within the size limit for a Conditional Use Permit, and in itself would not require a variance.*
- (iii) Character of Neighborhood. *The variance, if granted, will not alter the essential character of the neighborhood. The shed is of quality architecture and construction and is designed to be compatible with the primary residence. The shed siding and trim is painted to match the colors of the primary residence. The roofing material matches the primary residence. The shed is generally not visible from the surrounding neighborhood, such that the look and feel of the property is not altered. Although the shed can be seen from a four-season porch on the adjacent property to the north when looking south across homeowners' property, the shed is not visible from any other residence in the neighborhood. Homeowners have discussed construction of the shed with surrounding neighbors, and no concerns have been expressed. Homeowners will continue attempts to contact all residents on Wood Duck Ct.*

### Economic Consideration

As noted above, Homeowners believe construction of the shed elsewhere would have required costly removal of the preexisting concrete slab and excavation and rerouting of an existing in-ground sprinkler system. Homeowners also note that the shed has been painstakingly constructed at considerable expense. Homeowners understand that this could have been avoided had a permit been sought before construction, and wholeheartedly apologize for failing to do so. Nevertheless, alteration, movement, or removal of the shed at this point would result in substantial financial hardship for Homeowners.

;



**FIGURE 3 – AERIAL SHOWING EXISTING SLAB**

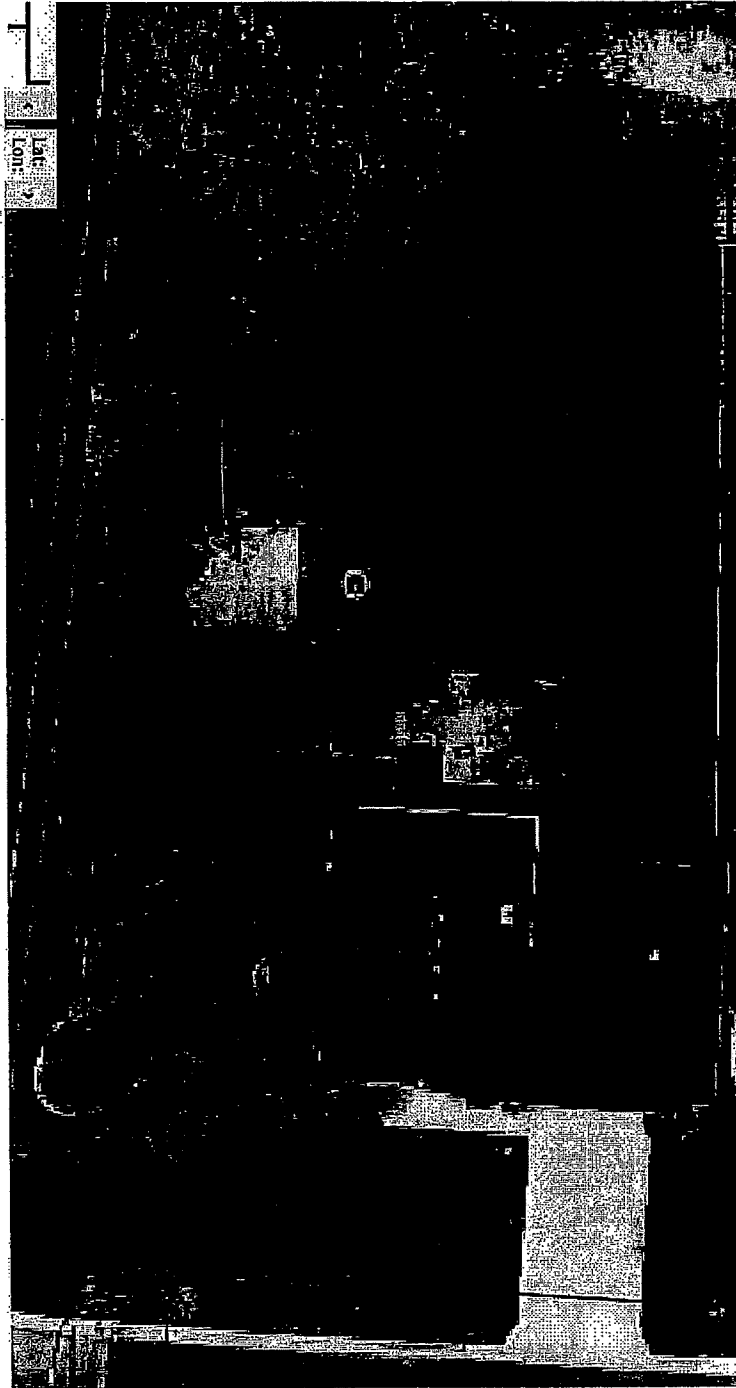
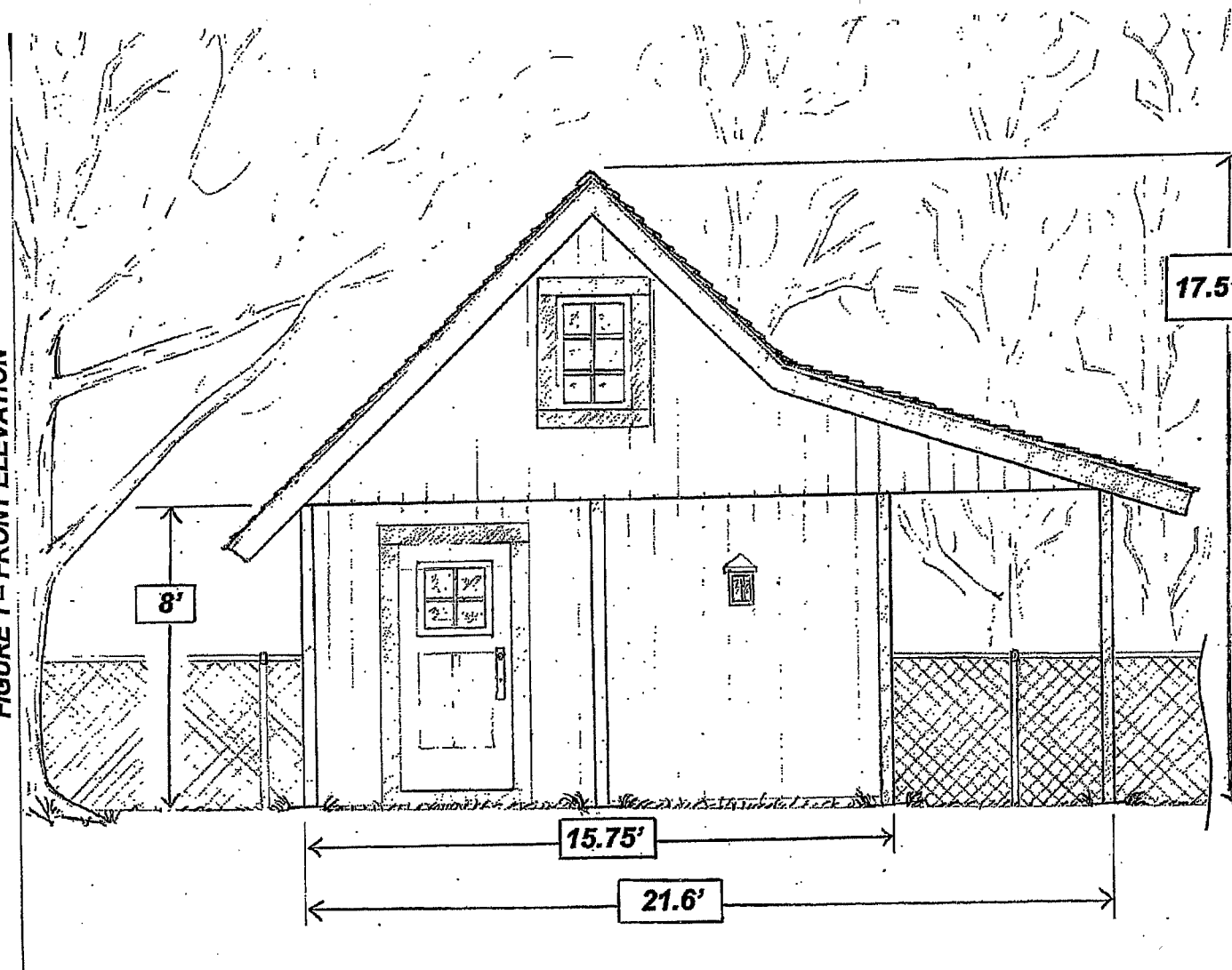


FIGURE 1 – FRONT ELEVATION



*Other Ordinance Requirements*

*Floodplain.* The floodplain elevation at 5555 Wood Duck is at 893 ft. The elevation of the lowest point of the shed (the post at the southwest corner) is 894 ft, or 1 ft above the floodplain.

*Setbacks.* The shed is set back 107 ft from Wood Duck Ct, 86 ft from Lepak Ct, and 144 ft from County Road I. The shed is set back 10 ft from the south property line. Homeowners therefore believe that all setback requirements have been complied with.

*Sidewalls.* The shed has 8 ft sidewalls, which is 2 ft. less than the 10 ft maximum.

*Overall height.* The overall height of the shed is 17.5 ft, which is less than the 18 ft maximum.

*Storage loft.* The interior height of the shed's storage loft is 7.25 ft at its peak, which exceeds the 6 ft maximum. The height is determined by the steep 12/12 roof pitch, which is constructed to match the roof pitch of the primary residence. If necessary, Homeowners can reduce the interior height to 6 ft.

*Maximum area for detached accessory structures.* The foundation area of the dwelling is 2300 ft<sup>2</sup>. Therefore, the maximum possible area for detached structures is the lesser of 75% of 2300 ft<sup>2</sup> (1725 ft<sup>2</sup>) or 750 ft<sup>2</sup>. The area of the shed is within these requirements. There are no other detached structures on the property.

*Finished floor.* The shed floor is a concrete slab that existed prior to the current homeowners.



**FIGURE 4 – AERIAL SHOWING SURROUNDING AREA**



FIGURE 5 – VIEW 1 FROM WEST (COUNTY ROAD 1)

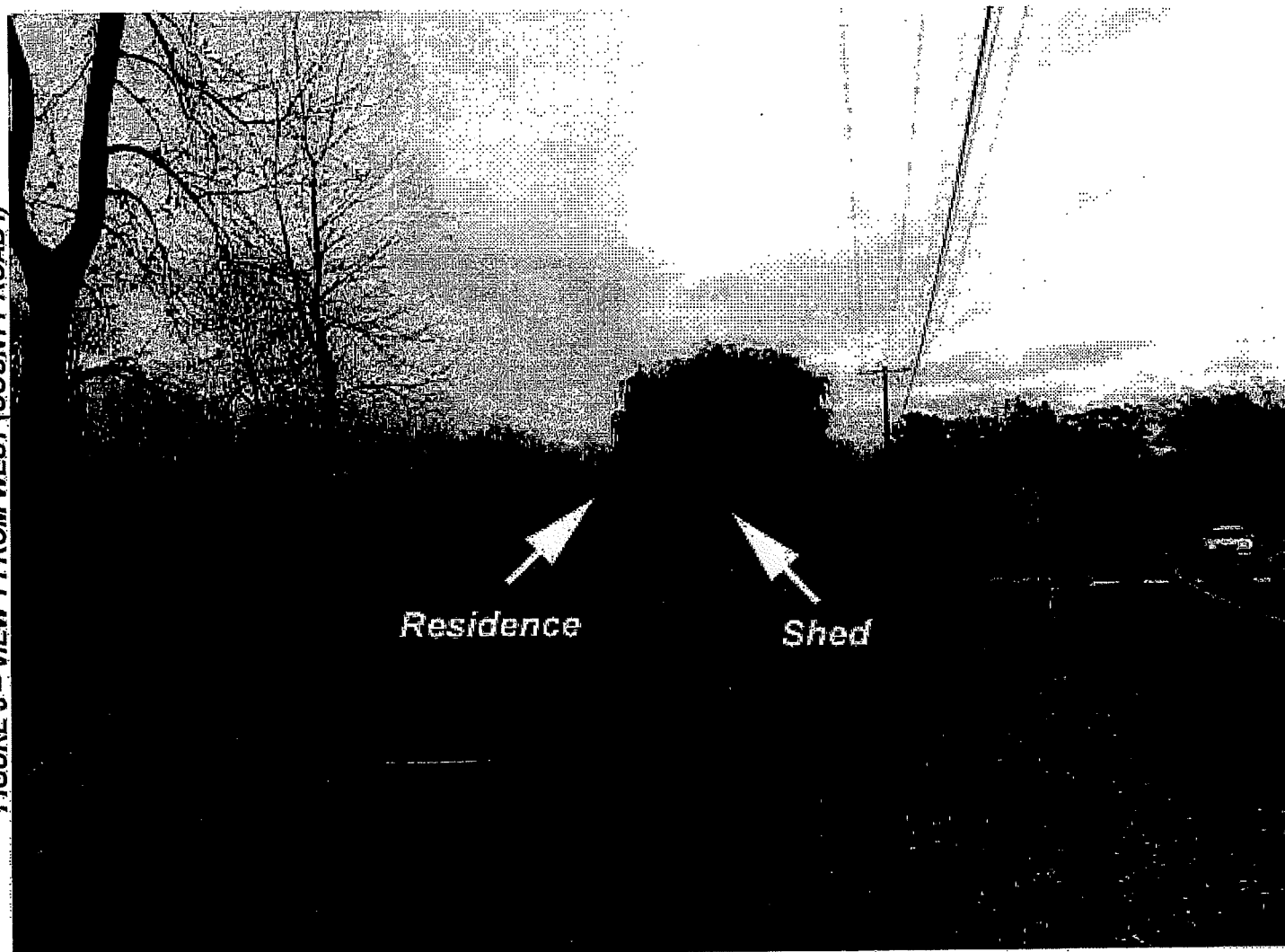


FIGURE 6 - VIEW 2 FROM WEST (COUNTY ROAD 1)

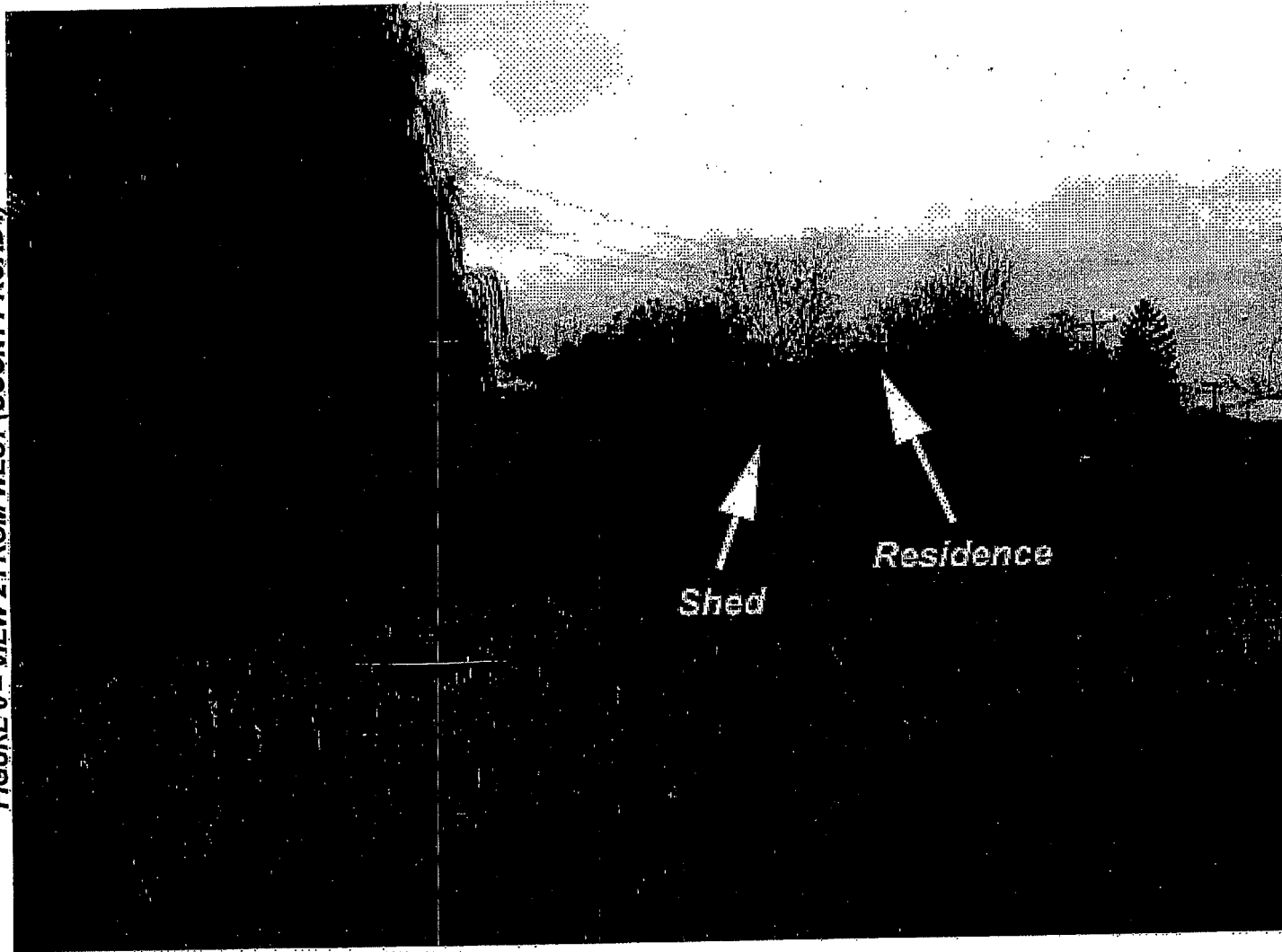


FIGURE 7 - VIEW FROM SOUTH (COUNTY ROAD 1 AND LEPAK CT)

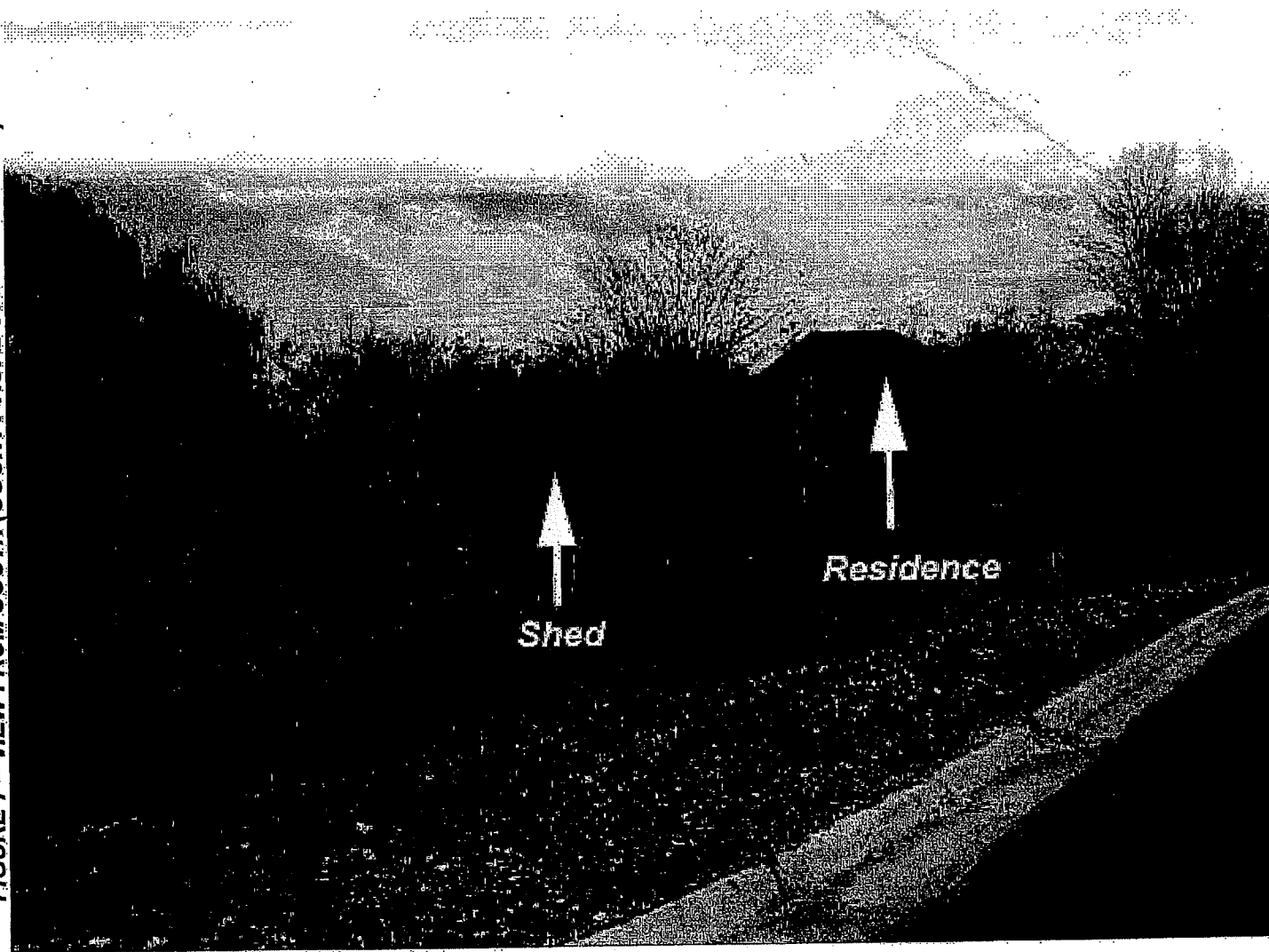


FIGURE 8 - VIEW FROM SOUTHEAST (WOOD DUCK CT AND LEPAK CT)



FIGURE 9 - EVERGREENS SCREENING FROM SOUTH

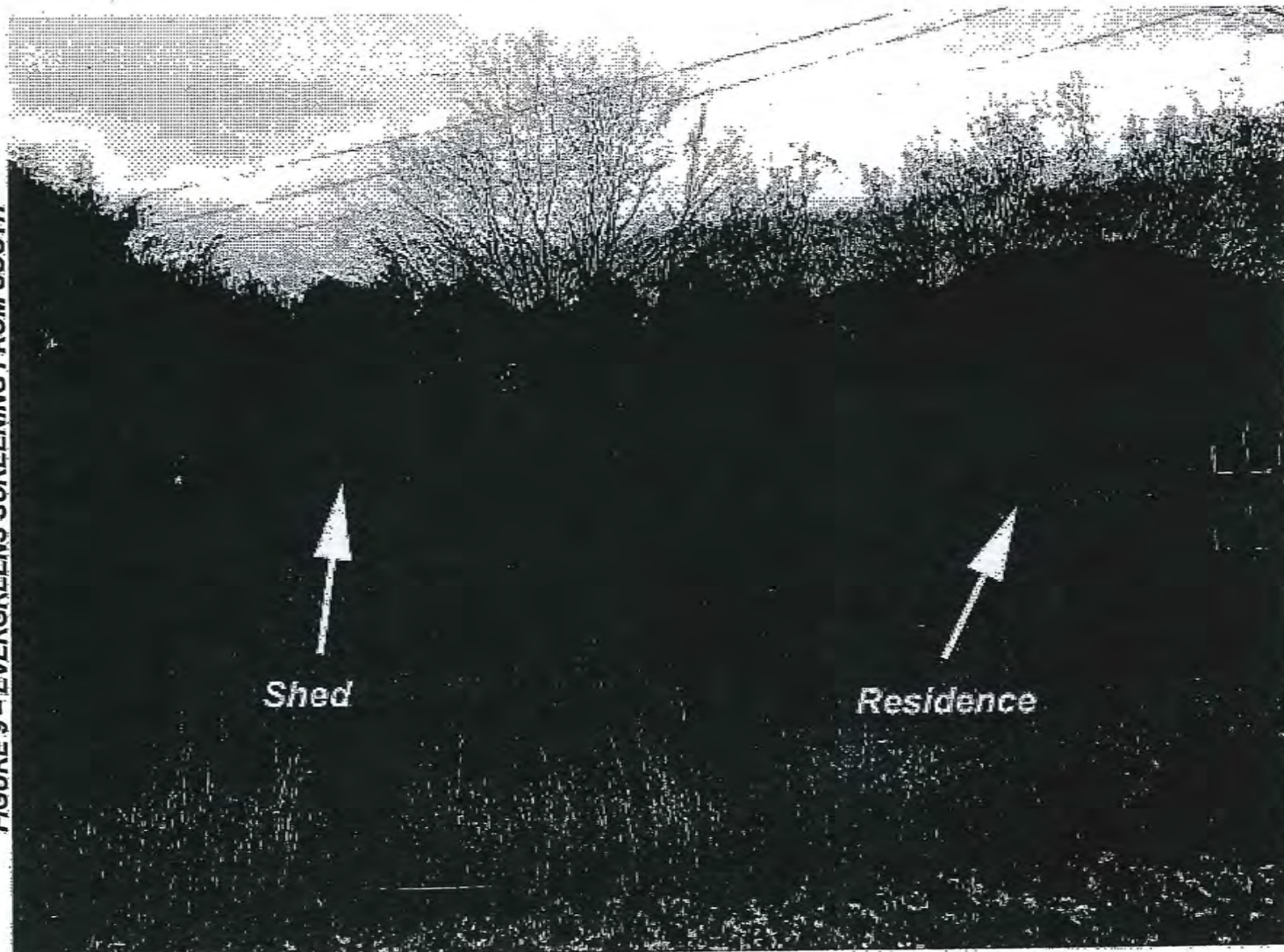
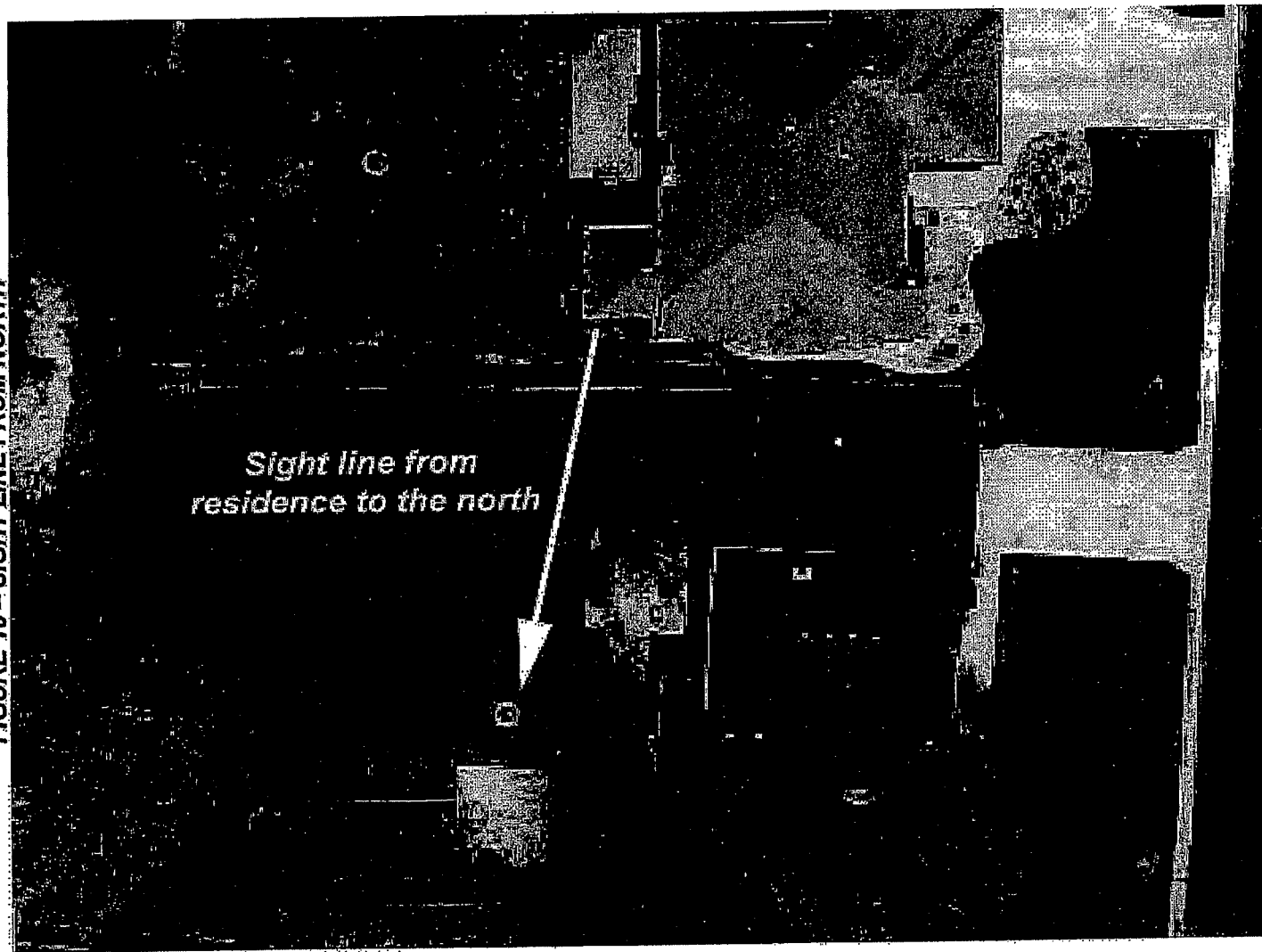


FIGURE 10 - SIGHT LINE FROM NORTH



5555 Wood Duck Court  
Shoreview, MN 55126

Response to Notice of Incomplete Application

In a letter dated November 18, 2013, the City indicated that the application for a variance was incomplete for the following reason:

A variance request for the sideyard setback. Section 205.082 (D)(2) States that side yard setback shall be a minimum of ten (10) feet except that side yards adjoining a street right-of-way shall be treated as a front yard for purposes of setback requirements. Front yards require a setback of at least 25 feet but in no event more than 40. In this case it would be the same sideyard setback as the house from the south lot line.

In response, Homeowners supplement the initial request for a variance submitted on November 12, 2013 with this request for an additional variance for the sideyard setback requirements of Section 205.082 (D)(2).

As in the, initial request, Homeowners believe the present supplemental request is consistent with objectives (A)-(L) of City Code Section 201.010, and also with the City's Comprehensive Plan.

In the initial request, Homeowners provided several reasons why the remaining City criteria (i.e. "Practical Difficulties") were met. Many of the same reasons apply equally to this request, and may or may not be repeated here. Homeowners provide additional reasons below:

Practical Difficulties

*(The application for a variance shall establish that there are practical difficulties in complying with the provisions of the Shoreview Development Regulations.)*

- (i) Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The shed will be used for storage of lawn and garden equipment, tools, and other items (e.g., large outdoor children's toys). A portion of the shed exterior will be a covered play area for the homeowners' children. These uses are reasonable and consistent with a residential purpose.
- (ii) Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner. The location of the existing slab is a unique circumstance that was not created by the property owner. The slab is currently located 10 feet from the property boundary and the structure will not encroach nearer than the slab. Homeowners again note that placement of a shed elsewhere in the rear yard would have required substantial site disturbance to facilitate removal of the existing slab and construction of a separate foundation (and excavation and rerouting of an extensive in-ground sprinkler system).



(iii) Character of Neighborhood. *The variance, if granted, will not alter the essential character of the neighborhood.* When the primary residence was originally built (~1990), County Road I was directly adjacent the south border of the property. At that time, the existing slab was located approximately 35 ft north of County Road I. However, several years ago, County Road I was re-routed to the south, with the result that the existing slab was located over 190 ft north of County Road I, and over 115 ft north of the newly created LePak Court. Since removal of the roadway, the right of way adjacent to the south border has been used instead for other purposes (e.g., a trail and storm-water pond). Therefore, traffic in the neighborhood does not pass close to the shed, and the essential character of the neighborhood is not altered due to its present location. Moreover, as noted above, re-use of the existing slab minimizes site disturbance in the neighborhood. The smaller setback is therefore justified.

Economic Consideration

As previously noted, Homeowners believe construction of the shed elsewhere would have required costly removal of the preexisting concrete slab and excavation and rerouting of an existing in-ground sprinkler system.



Nicole Hill <nhill@shoreviewmn.gov>

---

## 5555 Wood Duck Court

---

Karen Engen <kengen@practicemn.com>  
To: "nhill@shoreviewmn.gov" <nhill@shoreviewmn.gov>

Mon, Nov 25, 2013 at 9:49 AM

Will and Karen Engen have no objections for this but isn't it already there?

Karen Engen

612.669.7173

FAX 651.490.7797

5580 Wood Duck Court

Shoreview, MN 55126

NOTICE: This e-mail and any files transmitted with it are confidential and covered by the electronic Communications Privacy Act and are intended solely for the use of the individual or entity to whom they are addressed. Any PHI (Protected Health Information) contained in this email is **HIGHLY CONFIDENTIAL**. It is to be used only to aid in providing specific healthcare services to this patient. Any other use is a violation of Federal Law (HIPAA) and will be reported as such. If you are not the intended recipient or the individual responsible for delivering the e-mail to the intended recipient, please be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify the sender and delete it. Thank you

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD DECEMBER 10, 2013**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 13-111 FOR A VARIANCE TO REDUCE SIDE YARD SETBACK  
AND INCREASE THE MAXIMUM ACCESSORY STRUCTURE SQUARE FOOTAGE**

WHEREAS, Aleksander Medved, submitted a variance application for the following described property:

Lot 1, Block 1, MEADOW POND ADDITION, Ramsey County, Minnesota  
*(commonly known as 5555 Wood Duck Court)*

WHEREAS, the Development Regulations establishes a minimum building setback for an accessory structure to that of the house for a side property line adjacent to a Right of Way; and

WHEREAS, the Development Regulations establishes a maximum accessory structure square footage for an accessory structure; and

WHEREAS, the applicants are proposing to retain the existing foundation; and

WHEREAS, the existing foundation is setback 10' from the southern side property line; and

WHEREAS, the applicant has requested a variance to utilize this foundation and retain the 10' setback for the construction of a new detached accessory; and

WHEREAS, the applicant has requested a variance to exceed the maximum accessory structure square footage for a 416 square foot accessory structure; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests.

WHEREAS, on December 10, 2013 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The applicants' proposal to construct an accessory structure utilizing the existing foundation is reasonable. The re-use of the slab will minimize site disturbance and permit the applicants to retain the vegetation that exists along the southern lot line.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

The size and location of the existing slab are unique circumstances which were not created by the property owner. The existing slab is located 10 feet from the side (south) property line and adjacent to a public Right of Way. County Road I was relocated further south in 2004 and Lepak Court was created, leaving an expanded Right of Way along the south side of the property. The right of way is currently developed with a trail and storm pond located between the property and County Road I. The shed is over 80 feet away to the nearest point in Lepak Court, over 150 feet away at its nearest point to County Road I, and more than 20 feet from the trail. The area between the shed and the trail is heavily landscaped, minimizing visibility of the shed when viewed from the street or trail. Placement of a new concrete foundation elsewhere on the property would result in site disturbance and increase the impervious surface coverage. An existing in ground sprinkler system is also present which would be impacted.

The applicant used the existing slab for the enclosed structure and extended the roof further over the grass for a covered play area. The 237 sq ft enclosed structure itself could be permitted with a conditional use permit, but a variance is needed for the area of roof coverage. The foundation area of the structure is defined as *That portion of the lot covered with roofed structures generally measured to the foundation or footings*. The unenclosed area will have grass below, not a foundation or deck. In staff's opinion, additional square footage of the unenclosed portion of the structure, which would be used for a play area and not outside storage, is reasonable. City code treats unenclosed porches differently than enclosed porches and this is of similar use.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The variance will not alter the character of the neighborhood. The proposed structure will complement the architectural design of the home and will improve the appearance of the property with added storage.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 5555 Wood Duck Court, be approved, subject to the following conditions:

1. The unenclosed play area will not be used for outside storage.
2. The unenclosed area will remain open. No wall system that consists of substantially of screens, windows, and/or doors may be permitted.
3. The interior storage area above the main floor will be modified to comply with development code standards. Plans must be submitted showing how the proposed modification will be made.
4. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
5. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
6. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
7. The applicant shall obtain a building permit for the structure.
8. The structure shall be used for the personal storage of household and lawn equipment.
9. The structure shall not be used in any way for commercial purposes.

The motion was duly seconded by Member \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 10th day of December, 2013

\_\_\_\_\_  
Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

\_\_\_\_\_  
Kathleen Castle, City Planner

ACCEPTANCE OF CONDITIONS:

\_\_\_\_\_  
Aleksander Medved, 5555 Wood Duck Court

STATE OF MINNESOTA)

)

COUNTY OF RAMSEY )

)

CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 10<sup>th</sup> day of December, 2013 with the original thereof on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to adopting Resolution 13-111.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 10<sup>th</sup> day of December, 2013.

---

Terry C. Schwerm  
City Manager

SEAL

## **MOTION**

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To adopt Resolution 13-111 approving a Variance to reduce the side yard setback to 10 ft and increase the allowable accessory structure square footage on the property at 5555 Wood Duck Court, subject to the following conditions:

1. The unenclosed play area will not be used for outside storage.
2. The unenclosed area will remain open. No wall system that consists of substantially of screens, windows, and/or doors may be permitted.
3. The interior storage area above the main floor will be modified to comply with development code standards. Plans must be submitted showing how the proposed modification will be made.
4. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
5. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
6. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
7. The applicant shall obtain a building permit for the structure.
8. The structure shall be used for the personal storage of household and lawn equipment.
9. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

**VOTE:**

**AYES:**

**NAYS:**

Regular Planning Commission Meeting  
December 10, 2013

# Exhibit 5



# EXHIBIT 5

## SHOREVIEW PLANNING COMMISSION MEETING MINUTES JUNE 25, 2013

### CALL TO ORDER

Chair Solomonson called the June 25, 2013 Shoreview Planning Commission meeting to order at 7:00 p.m.

### ROLL CALL

The following Commissioners were present: Chair Solomonson, Commissioners McCool, Schumer, Thompson and Wenner.

Commissioners Ferrington and Proud were absent.

### APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to approve the June 25, 2013 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 5 Nays - 0

### APPROVAL OF MINUTES

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to approve the May 28, 2013 Planning Commission meeting minutes, as submitted.

VOTE: Ayes - 4 Nays - 0 Abstain - 1 (Wenner)

### REPORT ON CITY COUNCIL ACTIONS:

City Planner Kathleen Nordine reported that the following matters were reviewed and approved by the City Council:

- RJ Marco Building Addition, 577 Shoreview Park Road
- Preliminary Plat and Planned Unit Development Amendment for Target, 3800 North Lexington

## **NEW BUSINESS**

### **PLANNED UNIT DEVELOPMENT - CONCEPT STAGE**

**FILE NO.:** 2489-13-16  
**APPLICANT:** RUTH KOZLAK, UNITED PROPERTIES RESIDENTIAL,  
LLC/ZERR  
**ADDRESS:** 4785 HODGSON ROAD, 506 TANGLEWOOD DRIVE

#### **Presentation by City Planner Kathleen Nordine**

United Properties is proposing to redevelop the Kozlak's Restaurant site and the adjacent property that has a single family home. Combined, the site would consist of approximately just over 4 acres. This proposal would demolish existing site improvements in order to construct a three-story senior residential cooperative building with 87 units. The Senior housing land use designation allows 45 units per acre. The building would be three stories with a central core and four building wings. Two accesses are proposed, one off Hodgson Road and one off Tanglewood Drive. Surface and underground parking would provide a total of 122 stalls. Varied setbacks are proposed, but the developer plans to comply with City setback requirements. Adjacent uses of the property are single-family residential and some office development to the north. Landscaping and a storm water pond would be included in the site design.

The Concept Stage is the time to identify potential concerns to be addressed by the developer. A number of applications will be required, including a Comprehensive Plan Amendment to change the land use from Office and Low Density Residential to Senior Residential, rezoning from Office and R1, Detached Residential to PUD; a preliminary and final plat; the Development Stage and Final Stage applications of the PUD; and a vacation on Hodgson Road.

Immediately to the south of the site is Policy Development Area (PDA) No. 9, which addresses potential redevelopment of the east and west sides of Hodgson Road. The east side has been developed with single-family detached town homes and senior housing. The west side continues to have single-family residential. Future land use within this PDA are designated for office and low density residential.

The proposed site is not included in PDA No. 9. As Hodgson Road is an arterial road, this proposed use could provide a transition from Hodgson to lower density residential neighborhood immediately west of the development site. Otherwise, uses permitted in the Office zoning district include , restaurants, medical/dental facilities, offices and daycare facilities which could be developed on this property with Site and Building Plan Review.

The building design results in varied setbacks. The underlying zone would be multi-family residential. The required setback for the proposed building would be 30 feet, if the building is 35 feet in height or less. Should the height exceed 35 feet, then the setback must be increased for every foot of added height beyond 35 feet. As proposed, only the corners of the building would be setback 30 feet.

The proposed 122 parking stalls is less than the required 217.5 stalls required in an R3 District. This ratio is based on general occupancy buildings. Experience has shown that senior living facilities require less parking. The proposal is within range of other senior living facilities in the City that have 1.4 stalls per unit.

Senior housing generally has a lower traffic impact since traffic generated occurs off-peak and does not elevate the number of cars at peak hours. The average daily number of trips expected is 303 with 48 trips during peak hours on the weekend and 25 peak hour trips during weekdays. Based on the design of the roads, staff believes there would be minimal impact. A traffic study will be required with any future application.

Property owners within 350 feet were notified. Concerns expressed relate to the loss of the restaurant, compatibility of this use, traffic and visual impact and whether there is a need for more senior housing in the City.

The Lake Johanna Fire Department has reviewed the proposal as has Ramsey County Public Works Department. Ramsey County appears to be willing to vacate the excess right-of-way but will do so with the requirement of added road-right-of-way along Hodgson Road.

Commissioner Thompson asked if consideration has been given to the fact that this facility is expected to attract a younger population and that it can be expected that there will be more than one vehicle per unit. Her concern is whether the proposed parking is sufficient. Ms. Nordine responded that staff reviewed parking in comparison to other senior living in the City. There are a number of types of senior living in the community. Those that are general occupancy fall into the 1.4 to 1.7 stalls per unit ratio.

Commissioner Wenner asked what plans the City has with regard to reconstruction of Highway 49. Ms. Nordine answered that Highway 49 is a County Road and falls under the County's Jurisdiction. There are plans for the reconstruction of this roadway south of Highway 96. She is not aware of plans to the north.

**Mr. Brian Carey**, United Properties, stated that it is a company in the Twin Cities since 1916. The company is active in all areas of residential and commercial real estate. The State Demographer chart shows a significant demand for senior housing. It is estimated that the population will grow in the next 10 years by 237,000 people, over 200,000 of whom will be over age 55. Between 2010 and 2030, a population growth of over one-half million is expected with some 400,000 being over age 55. That is why his company is focusing on senior living. There is a shortage of senior housing in the Twin Cities and a shortage of good sites. With some 2500 cars per day on Tanglewood and 14,000 per day on Hodgson, this site is not good for single-family residential but is worthy of consideration for higher density senior housing.

Parking is planned in front so as to not be seen by neighbors. The configuration of the building with a central core and four wings means that less than half of the building is seen from any one view. It is not a long wall building. Neighbors' concerns focus on loss of trees, proximity to residential homes, how access would work, exterior lighting that will shine into yards and windows, loss of sunlight during the day and drainage issues. The land to the west is lower in

grade, and residents do not want flooded yards. The closest point to residences is a corner that is heavily landscaped. A strong landscape plan will be developed with feedback from neighbors. No large down exterior lights will be used. Ground level bollard style lighting will be used that does not shine into any yards of residents. Building shadows into yards will not occur after 9:00 a.m. in summer. In winter, the one home where there is a shadow after 9:00 a.m. is gone by 10:00 a.m.

The main concern of neighbors is height of the building and proximity to houses. City regulations allow 35 feet in height, which is what is proposed. A minimum setback from homes would be 100 feet and some as much as 200 feet. Typical side setbacks in this neighborhood are 10 to 20 feet. The plan is meant to be a good neighbor in the community.

Chair Solomonson asked about the slope of the roof and whether it is 35 feet to the midpoint. Mr. Carey stated that will be explored. It would be his preference to have a steeper slope with 39 feet at the midpoint. Chair Solomonson asked if two stories were considered. Mr. Carey responded that two stories is not economically viable. The topography on the south would make the southern wings look like two stories.

Mr. Carey explained that the senior housing proposed is for those in their late sixties and early seventies and are very active. The building across the street is assisted living and very different.

Commissioner McCool asked if the grade of the site requires lifting the building. The drop in grade appears to be three feet from 927 to 924.

Commissioner McCool asked about discussions with the County regarding access. **Mr. Mark Nelson**, United Properties, stated that specific discussions have not taken place about access from the excess right-of-way. It is planned to be south of the median and north of the existing Kozlak's access.

Commissioner McCool requested that the data from the traffic study, the photometric and shadow studies be made available to the Commission at the Development Stage application presentation. He would also like to see the parking study

Commissioner Thompson asked the price of the units. Mr. Carey answered, approximately \$300,000. He noted that 20% of buyers in the Roseville facility are from Shoreview, which speaks to the need of this type of facility in Shoreview.

Commissioner Wenner asked what measures would be provided for people to move around without vehicles. Mr. Carey stated that there is a trail convenient to the site and a trail around the site. The site is close to retail services that residents can walk to. Designated areas in the building are provided for bicycle storage.

Chair Solomonson opened the meeting to public comment.

**Ms. Adrienne Sampson**, 581 Kent Court, stated that the age group this building is supposed to appeal to is not moving to senior living places. They are moving to patio homes or

condominiums. She questioned that parking would be sufficient. When she visits her mother, who is in a large facility, there is never enough parking. She would like to know the cost of the underground parking proposed. Where her mother lives underground parking costs thousands of dollars. The wing design is common, and seniors who live in these facilities complain about the long walk just to get to the dining room. She believes Shoreview has quite a few senior living developments already.

**Ms. Mary Austin**, 525 Chandler Court, stated that a petition was circulated to neighbors and obtained 110 signatures from neighbors south and north of Tanglewood. The building proposed is too massive. Most of what was discussed at the neighborhood meetings was downsizing. Residents are worried about privacy and the character of the neighborhood. This development would be in the middle of the neighborhood. She would hope that any trees planted would be pines and firs, not deciduous trees that do not provide screening in winter.

**Ms. Maureen Iten**, 4815 Kent Drive, stated that she did not receive a letter for residents within 350 feet. She stated that the center turning lane on Hodgson Road is a problem. The turning signals are confusing and should be fixed. She suggested the community areas on second and third floor to preserve privacy of adjacent homes. She took issue with the notification process, that it include all of Shoreview, as this development will impact all of Shoreview.

**Ms. Lisa Fuechtmann**, 495 Chandler Court, stated that she has pine trees that are on the property line and she wants to know if the trees will be cut down and whose responsibility it would be if they have to be removed. There is also a fence and will it be replaced? She is concerned about flooding in the back yard and would like more information about that.

**Mr. Bill Sazenski**, 525 Chandler Court, stated that there were immediate neighbors who attended the neighborhood meeting. Approximately 20 to 30 attended. Overwhelmingly, the immediate neighborhood is against the size of this project. It needs to be downsized. There has been discussion of downsizing to two stories for the portion of the building closest to residences. Although he does not want to move, he does feel threatened by the size of the project. It is his hope that a middle ground solution can be found. He suggested more open space in the back that will benefit senior residents as well as neighbors.

**Mr. Jason Louie**, 4760 Chandler Road, stated that he attended both neighborhood meetings. His strongest concern is the size of the proposal, and that is the one thing they have not addressed indicating it is not economically viable to reduce the size. The size of this project will greatly reduce his amount of privacy. He moved to Shoreview for the small town atmosphere. If this is developed, he and his family will have to consider moving. The question is if this is what Shoreview should be moving toward. Looking out his back windows he will only see that that huge building.

**Mr. Michael Mcguire**, 515 Chandler Court, stated that the neighborhood could do worse. Something will happen to this property. If the project is not economically viable, it cannot be built and no one knows what will come next.

**Ms. Barbara Evans**, 514 Tanglewood, stated that the 3-story building with balconies will mean people looking right over her property. She has a porch she is fond of using that will become a fishbowl. She suggested that the people living there would mostly interact with themselves and questioned whether they would interact with the community. There are a lot of water areas in this project. There are neighbors with small children and United Properties was asked if the ponds would be fenced. The response was that it is the parents' responsibility to watch the children. She would much prefer an office building. An office building would be vested in the community and likely not open on weekends.

**Ms. Diane Close**, 4511 Kent Street, stated that a number of neighbors on her street and Laura Lane are impacted by the traffic. She and her neighbors thought the development was going to be an extended patio for Kozlak's or a new parking lot. No one had any idea that a senior living complex was proposed. There is another just down the road within walking distance. This takes away opportunity to spend money in Shoreview. An office or mixed use office complex would be better. There is no public transportation for these people who will have to depend on cars and will be a burden on the amenities in Shoreview.

**Mr. Bret Campbell**, 485 Chandler Court, stated that he attended one neighborhood meeting. There is no opposition to United Properties and their quality buildings. This is the only one surrounded by single-family housing. To the northeast, west and south within blocks is some type of senior housing and services. He questioned what will happen to these buildings in 30 years, when the baby boomer generation is gone. There is a web page on United Properties website that advertises the project as if it is a done deal. He lost a lot of trust in what has been said after he found the web page.

**Mr. Chuck Anderson**, 522 Tanglewood Drive, stated that one of the constants in the process is change. He believes there could be a lot worse use for the space. He would favor continuing to work with United Properties to see what modifications can be made.

**Ms. Deb Craigmile**, 545 Tanglewood Drive, stated that she likes the aesthetics of the proposed plan, which is a bonus. Her concern is for residents closest to the site, and their comments need to be strongly considered and be involved in the discussion process. Her concern is also for the traffic pattern and parking. There is no parking on Tanglewood on either side. Where would overflow parking be? For her own personal gatherings, people park on Chandler and Kent. She is concerned about staff and how many will support the site and their parking. She does not support a 3-story structure, which means high density. The closest residents need to think about what they will accept. She recalled that a library was proposed on the Rainbow site. Residents opposed the library, and Rainbow came in.

**Mr. Jake Monge**, 538 Tanglewood Drive, there are rules and policies in Shoreview about land uses--the Comprehensive Plan, zoning. It is a legislative process to change those policies and rules. He urged the Commission to take the rules into consideration. Residents are being asked to comment on a project with little information--no measurements of setbacks, no traffic study, no elevations. This information needs to be presented.

**Ms. Laura Stans**, 477 Old Chandler Road, echoed everything that has been said. Her concern is about safety and adding even more senior living in this area. It makes the community older rather than development that offers activities to attract younger people.

In response to concern about notification of residents, **Mr. Carey** stated that the neighborhood meetings and notices sent out by United Properties is in addition to what the City requires. Notices will continue in accordance with City requirements. Further, he stated that there is a misperception about the responsibility of parents to children in regard to the ponds. That is not an accurate reflection of his statement. Also, the building is not being secretly marketed on the website. There have been two marketing meetings where it was made clear that local approvals have not yet been secured. It takes over a year to market this type of community. The next step is a concept review at the City Council meeting on July 15, 2013.

Ms. Nordine noted that notices will not be sent out again before the Council meeting. Future notices will be in accordance with City regulations within 350 feet. Anyone who wishes to receive a notice can contact the City to be put on the mailing list.

#### **Commission Comments:**

Chair Solomonson agreed that there is a lot of senior housing in Shoreview. His biggest concern is the proximity to residential properties. There needs to be sensitivity and more of a transition to make it compatible. He would like to see the southwest and northwest corners dropped to two stories.

Commissioner Schumer stated that this is the beginning of a long process. The developer is here to listen and to build something that will be accepted in the neighborhood. He believes the notification process is adequate at 350 feet. Residents would be upset if taxes went up because of citywide notification of all development. For those interested and concerned, be sure to attend neighborhood meetings and get the word out. He also have concerns about the size and proximity to the neighborhood. It is a process and the Commission will be reviewing it again with further changes.

Commissioner Wenner stated the development proposed is to a market that he does not believe is being reached currently in Shoreview. His concern is the size of the building where it is closest to neighboring residences. Many of these issues were raised with the senior living facility that abuts North Oaks. Concerns were raised early in the process and addressed. He appreciates that this discussion can take place early in the process with this project so that concerns can be taken into consideration.

Commissioner Thompson stated that she would prefer a development that would be more retail and restaurant oriented. Residents do not want to see Kozlak's leave but want to see something brought in where people can go. She also realizes that the data presented supports the need for this type of senior housing. However, she has some concerns about the proximity to the residential neighborhood and sufficient parking. She thanked residents for coming forward.

Commissioner McCool stated that he questions the appropriateness of this use. This site is underdeveloped and will be redeveloped more densely, which will impact neighbors. He questions whether there is too much senior housing. However, United Properties is one of the most respected developers in the Twin Cities, and they believe the project is viable. Reducing the number of units means fewer amenities, such as landscaping. If senior housing is developed, he, too, would like to see the impact to neighbors reduced either through landscaping or site design. There are rental apartments that abut residential neighborhoods, and he believes this is a high end product that is better.

### **VARIANCE**

**FILE NO.:** 2487-13-14  
**APPLICANT:** TIM AND THERESA GEDIG  
**ADDRESS:** 4305 BRIGADOON DRIVE

#### **Presentation by City Planner Kathleen Nordine**

This application is for a home addition that reduces the rear yard setback from 30 feet to 27.5 feet. The addition will be two stories on the rear of the home to provide 548 square feet of living space. The main floor will be dining and living space; the second floor will be a loft. An existing porch would be removed and the addition constructed in place of the porch. A small corner of the addition would encroach into the setback by 2.5 feet.

The applicant states that the addition will provide needed living space. The addition is a minimum intrusion into the minimum setback. The angle of the home impacts the proposed addition and setback from the rear lot line.

Staff believes that the proposal is reasonable. There are constraints on the existing home placement which dictate where an addition can be constructed. Landscaping can minimize any impact to the property to the south.

Property owners within 350 feet were notified. One written response was received in support. One phone call was received with concern about the encroachment and loss of open space between yards.

Staff believes practical difficulty is present and recommends approval of the variance with the conditions attached.

Chair Solomonson questioned the space between the home and addition that causes the variance.

**Mr. Tim Gedig** stated that the space will be used for utilities, such as air conditioning. It also preserves the windows in the bathroom adjacent to that space. The house is an A frame, and to place the addition abutting the house would look dumb. There are many angles on the house and many designs were tried. This is the only aesthetically pleasing design. He stated that he is adding a rain garden to the existing landscaping.



**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to approve the variance request submitted by Tim and Teresa Gedig, 4305 Brigadoon Drive, reducing the minimum 30-foot setback from a rear property line to 27.5 feet to construct an addition onto the home, subject to the following conditions:

1. This approval will expire after one year if a building permit has not been issued and work has not begun on the project. The project shall be completed as identified in the plan submittal. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. To mitigate the visual impact of the addition, landscaping is required along the southern property line. A landscape plan shall be submitted prior to the issuance of a building permit.
3. The approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity or site work begins.

This approval is based on the following findings of fact:

1. Reasonable Manner. The applicant's proposal to construct an addition onto the rear building wall is reasonable. The addition has been designed to minimize the encroachment into the rear yard with only a small corner of the building located in the setback area. The angle of the addition will minimize impacts on the adjoining property.
2. Unique Circumstances. The property is a corner lot and subject to more restrictive setback standards than interior lots. The angle of the home is unique and when combined with the interior floor layout of the home, difficulty is created regarding the placement of an addition onto the rear of the home.
3. Character of the Neighborhood. The proposed setback of the addition will not alter the character of the neighborhood. A reduction of the required rear yard setback to the 27.5 feet proposed would have minimal impact on the character of the surrounding neighborhood. Due to the angle of the addition, the majority of the required rear yard will remain open.

**VOTE:**                      Ayes - 5                      Nays - 0

**VARIANCE**

**FILE NO.:**                      2488-13-15  
**APPLICANT:**                KEVIN STOSS/MONTSEERRAT TORREMORELL  
**ADDRESS:**                    226 OWASSO LANE EAST

**Presentation by City Planner Kathleen Nordine**

The application is to demolish a legal nonconforming accessory structure and reconstruct a new detached garage that will be slightly larger and taller. An existing nonconforming structure may be maintained, if the size is not increased. The variances requested are to maintain the existing

4.5 foot side setback from the property line and to increase the maximum square footage permitted from 1200 square feet to 1,292 square feet.

The property is .78 acre in size and zoned R1, Detached Residential and is also in the Shoreline Overlay District of Lake Owasso. The existing slab will be retained and a new slab poured over it with an increase in size from 480 square feet to 520 square feet. The height will also be increased from 12 feet to 17 feet. Other existing accessory structures will remain and include an attached garage of 672 square feet and storage shed of 100 square feet.

Staff finds that the request is reasonable in light of the location of the garage and driveway storage needs for the applicant. Unique circumstances are present due to the lot configuration, location of the garage, legal nonconforming garage at a 4.5 foot setback. A new garage that is consistent with the character of the home will not alter the character of the neighborhood.

Property owners within 350 feet were notified. Two responses were received in support and one comment with no concerns. Staff is recommending approval with the conditions listed in the staff report.

**Mr. Stoss**, applicant stated that the increase in size is to be able to store a boat and trailer.

Commissioner McCool agreed that the request is reasonable, but he is struggling with the need to increase the size of the garage in light of the City's ordinance. However, as a riparian lot, he understands the need to store a boat.

Chair Solomonson stated that two feet is a nominal and small increase that seems reasonable. Without the increase a variance would not be needed.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Wenner to adopt Resolution 13-58 approving the variance permitting and extension of two feet along the current legal non-conforming setback and the increased total accessory square footage to 1292. Unique circumstances are present and the proposed project supports the City's housing goals regarding reinvestment and neighborhood preservation. Said approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

This approval is based on the following findings:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. Reasonable Manner. In Staff's opinion, the variance request to rebuild the garage in the proposed location represents a reasonable use of the property. City Code permits detached garages as an accessory use. By establishing these provisions, the City deems that a detached garage represents a reasonable use of the property provided Code standards are met. Garages, especially in Minnesota, are needed for vehicle parking and storage of normal household equipment and supplies. Throughout Shoreview, they are a standard feature of detached single family residences. The existing garage can be reconstructed in the same location, provided the square footage remains the same. Since the applicant is proposing to expand the length 2-feet and raise the height of the building, the variances are needed.

The need for the variance request is due to the encroachment on the 10-foot setback from the lot line and the added square footage. Rebuilding the current garage in conformance to the existing setback would result in the garage length being too short to park the boat trailer, thus not alleviating the outdoor storage and parking of the boat/trailer. The current garage is also aligned with the asphalt from the existing driveway so relocating it within the setback would require repaving that portion of the driveway.

The City has discretion in determining 'reasonable use', and in this particular case, staff believes the area of the existing garage does not provide for the parking and storage needs of the homeowner, and that reasonable use is limited by the requirements of the Development Code.

3. Unique Circumstances. The circumstances warranting a variance stems from the uniqueness of the parcel. It is a riparian parcel with a shared driveway and no front lot line. The garage was constructed in 1960 in conformance with City setback regulations at the time. The variance requested will maintain the existing setback, extending it by two feet to the south, and is reasonable due to the location of the existing garage and driveway. The additional two feet expands the accessory square footage total to 1292 square feet. Construction of a detached garage conforming to the 10-foot setback from the lot line would result in a garage that is misaligned to the current shared driveway.
4. Character of Neighborhood. The existing detached garage does not meet or enhance the character of the neighborhood and tear down and rebuild would be an improvement. The proposed garage would match the architectural style of the current home and would be similar in style and setback to the neighboring garage at 224 Owasso Lane E.

VOTE:           Ayes - 5                      Nays - 0

## **OLD BUSINESS**

### **COMPREHENSIVE SIGN PLAN**

**FILE NO.:** 2479-13-06  
**APPLICANT:** LAWRENCE SIGNS/NORTHERN TIER RETAIL  
**ADDRESS:** 3592 LEXINGTON AVENUE

#### **Presentation by City Planner Kathleen Nordine**

This application was reviewed by the Commission in March and tabled because of the extensive use of graphics proposed. The plan has been revised. SuperAmerica is on the corner of County Road E and Lexington Avenue. The graphic is intended as communication and identification of SuperAmerica. Staff does define the graphic as a sign.

The graphics on the top tier and rear of the building have been removed. Graphics are proposed on the main portion of the building and on the canopy. The deviations needed are for the SuperAmerica sign length and graphic pin stripe length on the building and canopy. Staff believes the signage provides a good balance of communication by SuperAmerica on their identification and theme without overdoing it. What is proposed is similar to other signage approved by the City. Staff is recommending approval subject to the conditions listed in the staff report.

The applicant stated that the site is now owned by SuperAmerica; it is owned by Kath Oil Company which has another station in Shoreview. The canopy needs graphics to display what is being sold. It is not unreasonable or gaudy. The business plans to be there for at least the next 10 years.

Chair Solomonson agreed that the proposed signage is reduced and it is much clearer the way it is now designed.

Commissioner McCool stated that he did not disapprove of the first proposal and would support this proposal which is less intense.

The applicant asked if SuperAmerica can be located on both sides of the canopy, as it is at an angle toward both County Road E and Lexington. Ms. Nordine stated that staff reviewed the revision and calculated the signage area showing Option C, which is SuperAmerica stated on only one side of the canopy.

Commissioner McCool stated that in the March submittal there was no signage on the southwest corner. By removing the striping but having words on both sides does not increase what is proposed. He believes the signage on both sides makes sense.

**Mr. Michael Waich**, Applicant, stated that initially the proposal was larger but with signage on both sides of the canopy.

Ms. Nordine stated that if it is the same type of sign, the area calculation on northern side is 27.1 square feet. The main difference is the graphics on the building.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the Comprehensive Sign Plan submitted by Lawrence Signs, for the SuperAmerica fuel station at 3592 Lexington Avenue, subject to the following conditions:

1. The signs shall comply with the plans submitted for the Comprehensive Sign Plan application, including the revision of the southwest canopy replacing a portion of the pin stripes with SuperAmerica text. Any significant change will require review by the Planning Commission and City Council.
2. The applicant shall obtain a sign permit prior to the installation of any signs on the property.

This approval is based on the following findings of fact:

1. The plan proposes signs consistent in color, size and materials throughout the site for each type of proposed sign. Each type of sign (freestanding, wall, canopy and incidental) uses uniform color and materials, and with colors generally based on the SuperAmerica theme.
2. Approving the deviation is necessary to relieve a practical difficulty existing on the property. The angle-orientation of the building provides some difficulty in the identification of the business. The proposed sign plan relieves this difficulty by placing copy signage on the fascia of the canopy and on the building wall in a manner that effectively identifies itself.
3. The proposed deviations from the standards of Section 208 result in a more unified sign package and greater aesthetic appeal between signs on the site. The wall and canopy signs proposed, including the graphics band, give a uniform appearance to the building and canopy. Use of the graphics provides a greater aesthetic appeal for the site.
4. Approving the deviation will not confer a special privilege on the applicant that would normally be denied under the Ordinance. The configuration of the structure on the property is unique due to the building orientation. The proposed signage is reasonable for this type of use and uses the facades which are most visible or of importance to identify SuperAmerica.
5. The resulting sign plan is effective, functional, attractive and compatible with community standards. The sign plan proposes signs, including graphics that are effectively displayed, improve the appearance of the site/structures and are compatible with community standards applied to similar uses.

Discussion:

Commissioner McCool offered an amendment that the text on the southwest canopy would match that on the northeast canopy. Commissioners Schumer and Thompson accepted the amendment.

**VOTE:**                      Ayes - 5                      Nays - 0

## **MISCELLANEOUS**

### **City Council Meetings**

Commissioner Proud and Chair Solomonson will respectively attend the July 1, 2013 and July 15, 2013 City Council meetings.

### **Schedule Change**

The next regularly scheduled Planning Commission of July 23, 2013 is changed to August 6, 2013. Commissioner Thompson stated that she would be absent from that meeting.

### **Planning Commission Workshops**

The Planning Commission will meet in a workshop on July 16, 2013, at 6:30 p.m. to discuss storm water management in a joint session with the Environmental Quality Committee (EQC). In addition, the Commission will also discuss message center signage, which will be considered at the August 6th meeting.

A workshop is scheduled on August 27, 2013, at 6:00 p.m. immediately prior to the regularly scheduled Planning Commission meeting.

Commissioner Wenner stated that it is not possible for him to get to a 6:00 p.m. workshop meeting and would prefer that workshops be scheduled after the regular meeting. It was the consensus of the Commission to schedule the workshop after the regular meeting.

## **ADJOURNMENT**

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to adjourn the meeting at 9:58 p.m.

VOTE:                      Ayes - 6                      Nays - 0

ATTEST:

---

Kathleen Nordine  
City Planner

## Exhibit 5A

# EXHIBIT 5A

**TO:** Planning Commission  
**FROM:** Niki Hill, Planning and Economic Development Specialist  
**DATE:** June 18, 2013  
**SUBJECT:** Variance Request – Kevin Stoss and Montserrat Torremorell, 166 Owasso Lane E, File No. 2488-13-15

## **INTRODUCTION**

Kevin Stoss and Montserrat Torremorell have submitted an application requesting a variance to the setback and the floor area for the reconstruction of a detached accessory structure on their riparian lot. On properties with an existing non-conforming structure, code states that the structure may remain at its current size and/or may be structurally altered, including an area expansion, provided that the alternation complies with the City's current development regulations and procedures.

## **PROJECT DESCRIPTION**

The property is a standard riparian lot on the east shoreline of Lake Owasso. The property is zoned R1, Detached Residential District, as are the adjacent properties. The property is also located in the Shoreland Management District of Owasso Lake as are the adjoining riparian parcels.

The property is .78 acres and has a width of over 100 feet, and so is a standard riparian lot. The unique circumstances regarding the lot is that it was subdivided along eastern side of the property between the lake and the road, resulting in a shared driveway and no front lot-line as defined by city code. The applicants propose tearing down and rebuilding an existing non-conforming detached accessory structure on the property in the north east corner, increasing the footprint by 2 feet and the overall size from 482 to 520 square feet. The existing attached garage (672 square feet) and an existing shed (100 square feet) will remain on the property. The total floor area proposed for all of the accessory buildings is 1,292 square feet. The variance is needed because the structure is setback less than the 10 feet required and the total square footage of all the accessory structures permitted exceeds the maximum 1200 square feet allowed. Please see the attached plans.

## **DEVELOPMENT ORDINANCE REQUIREMENTS**

The accessory structure regulations were revised in 2006 and stricter standards were created to ensure the compatibility of these structures with surrounding residential uses. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive. The original detached garage was built when the total accessory square footage permitted was 1,500 and as such it is a legal nonconforming structure. Section 207.050 (D)(5)(F)(1) specifies that a structure which is nonconforming due to



dimensions or setbacks from property lines may remain at its current size and/or may be structurally altered, including an area expansion, provided that the alternation complies with the City's current development regulations and procedures. The current garage is located less than the required setback of 10 feet from the lot line. The proposed garage is to maintain the current setback along the lot line with the two additional feet which results in an increase in the total floor area of the detached garage to 520 square feet. That increases the total square footage of all accessory structures from 1254 to 1292. As such, a variance to reduce the setback in regards to the two feet and to exceed the maximum allowable accessory structure square footage has been requested. The project complies with the height and lot coverage requirements of the Development Code.

#### **Variance Criteria**

When considering a variance request, the Commission must determine whether the ordinance causes the property owner undue hardship and find that granting the variances is in keeping with the spirit and intent of the ordinance. Hardship is defined as:

1. *The property in question cannot be put to a reasonable use if used under the conditions allowed by the City's Development Code.*
2. *The hardship is due to circumstances unique to the property in question and was not created by the property owner.*
3. *The variance will not alter the essential character of existing neighborhoods.*

#### **Applicant's Statement**

The applicant identifies that the existing garage was built in approximately 1960 and is in poor condition. It is an eyesore in the neighborhood and is not consistent with architectural style of their home which was built in the mid 1990's. The existing detached garage currently exceeds the allowable detached structure square footage (20' x 24') and does not meet the 10 foot setback requirement.

The applicants are requesting a slightly taller and slightly longer garage for a couple reasons. First, the grading of the soil on the east side of the existing detached garage is causing rain water to penetrate the garage during heavy rains. They would like to add two rows of concrete block to the base of the walls to help alleviate some of the water issues. This will in turn increase the height of the structure. Second, the existing garage is too short to park their boat/trailer. Right now this sits in the driveway for a portion of the year. Adding two feet to the length of the garage as proposed would allow them to store the boat/trailer indoors year-round and thus improve the overall look of the neighborhood. Please see the attached statement.

#### **STAFF REVIEW**

Staff reviewed the proposal in accordance with the variance criteria, which are discussed below.

*The property in question cannot be put to a reasonable use if used under the conditions allowed by the City's Development Code.*

In Staff's opinion, the variance request to rebuild the garage in the proposed location represents a reasonable use of the property. City Code permits detached garages as an accessory use. By

establishing these provisions, the City deems that a detached garage represents a reasonable use of the property provided Code standards are met. Garages, especially in Minnesota, are needed for vehicle parking and storage of normal household equipment and supplies. Throughout Shoreview, they are a standard feature of detached single family residences.

The need for the variance request is due to the encroachment on the 10-foot setback from the lot line and the added square footage. Rebuilding the current garage in conformance to the existing setback would result in the garage length being too short to park the boat trailer, thus not alleviating the outdoor storage and parking of the boat/trailer. The current garage is also aligned with the asphalt from the existing driveway so relocating it within the setback would require repaving that portion of the driveway.

The City has discretion in determining 'reasonable use', and in this particular case, staff believes the area of the existing garage does not provide for the parking and storage needs of the homeowner, and that reasonable use is limited by the requirements of the Development Code.

*The hardship is due to circumstances unique to the property in question and was not created by the property owner.*

Hardship stems from the uniqueness of the parcel. It is a riparian parcel with a shared driveway and no front lot line. The garage was constructed in 1960 in conformance with City setback regulations at the time. The variance requested will maintain the existing setback, extending it by two feet to the south, and is reasonable due to the location of the existing garage and driveway. The additional two feet expands the accessory square footage total to 1292 square feet. Construction of a detached garage conforming to the 10-foot setback from the lot line would result in a garage that is misaligned to the current shared driveway.

*The variance will not alter the essential character of existing neighborhoods*

Staff believes that since the existing detached garage does not meet or enhance the character of the neighborhood the tear down and rebuild would be an improvement. The proposed garage would match the architectural style of the current home and would be similar in style and setback to the neighboring garage at 224 Owasso Lane E.

#### **PUBLIC COMMENT**

Property owners within 150 feet were notified of the applicant's request. Two written comments were received, one that has no comments on the proposal and the second stating that the project is ok with them. The written comments are attached.

#### **STAFF RECOMMENDATION**

Staff finds that reasonable use of the property is not present due to the size of the existing garage and limited area for expansion, that hardship is due to the parcel location and design of the existing garage. The variance will have a minimal impact on adjoining properties since the setback of the garage rebuild will be consistent with that of the existing garage. Staff recommends the Planning Commission adopt Resolution 13-58 approving the variance request, subject to the following conditions:

Stoss Variance  
File No. 2488-13-15  
Page 4

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

Attachments:

- 1) Location Map
- 2) Aerial and Site Photos
- 3) Applicant's Statement and Submitted Plans
- 4) Comments
- 5) Resolution 13-58
- 6) Motion



## 226 Owasso Lane E

### Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries



### Notes

Location Map

346.5 0 173.26 346.5 Feet

NAD 1983 HARN Adj MN Ramsey Feet  
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**Legend**



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

**Notes**



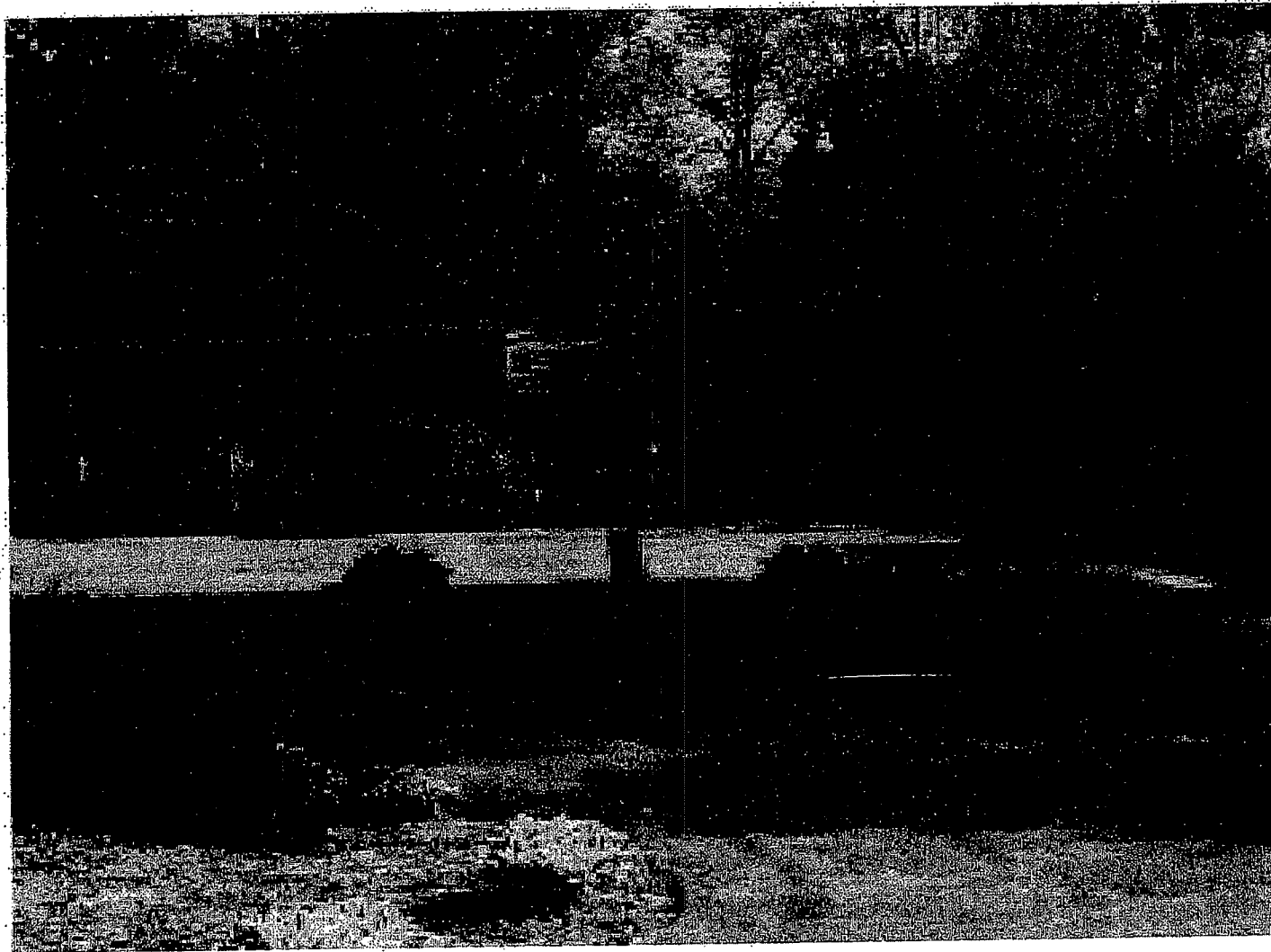
346.5 0 173.26 346.5 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division

This map is a user-generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**Existing detached garage (right) with neighbor's garage (left)**



### Variance Request

We are requesting approval to rebuild (tear down existing and build new) a detached garage on our property. The existing detached garage was built in approximately 1960 and is in poor condition (e.g., roof leaks, rotten siding, etc.). It is an eye sore in the neighborhood (see attached photo) and is not consistent with architectural style of our home which was built in the early 1990's.

The existing detached garage currently exceeds the allowable detached structure square footage (20' x 24') and does not meet the 10 foot setback requirement. That said we believe a new garage would be a significant improvement to the neighborhood. We are requesting approval to rebuild a structure that is 20' x 26' (2 foot longer/deeper than existing structure).

As noted above we intend to build the new garage in an architectural style that is consistent with our home. For example, the garage will have similarly colored metal siding (beige) and window/door trim (white). Like the house, there will be some stone "siding" on the front facade (both sides of the garage door). We would also like to incorporate the same roof pitch as that of the current attached garage structure.

The roof on the existing detached garage faces north/south. The south facing roof is above a driveway which creates erosion issues during heavy rain storms (no gutters on existing garage). This runoff ultimately ends up in Lake Owasso. The roof on the proposed garage would face east/west so that rain would fall on grass (east side) and an existing fern garden (west side).

In addition to the existing fern garden on the west side of the garage, we would add new landscaping on the north side of the proposed garage (once completed). While no specific plants have been identified to-date, we have a landscape designer from Linder's scheduled to visit in early June to start working on an overall property landscape plan.



Nicole Hill <nhill@shoreviewmn.gov>

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## Variance - Incomplete Notice

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Stoss, Kevin <KSTOSS@trane.com>  
To: "nhill@shoreviewmn.gov" <nhill@shoreviewmn.gov>

Mon, Jun 10, 2013 at 8:03 AM

Niki,

Please consider this email my response to your letter regarding the incomplete variance application for the proposed garage at 226 East Owasso Lane. My response to the three items identified as missing from the original application is below.

1) We are requesting a slightly taller and slightly longer garage for a couple reasons. First, the grading of the soil on the east side of the existing detached garage is causing rain water to penetrate the garage during heavy rains. We would like to add two rows of concrete block to the base of the walls to help alleviate some of the water issues. This in turn will also increase the height of the structure. Second, the existing garage is too short to park our boat/trailer. Right now this sits in the driveway for a portion of the year. Adding two feet to the length of the garage (as proposed) would allow us to store the boat/trailer indoors year-round and thus improve the overall look of the neighborhood.

2) The proposed height of the garage would be approximately 17 feet (or slightly shorter).

3) Total square footage of accessory structures:

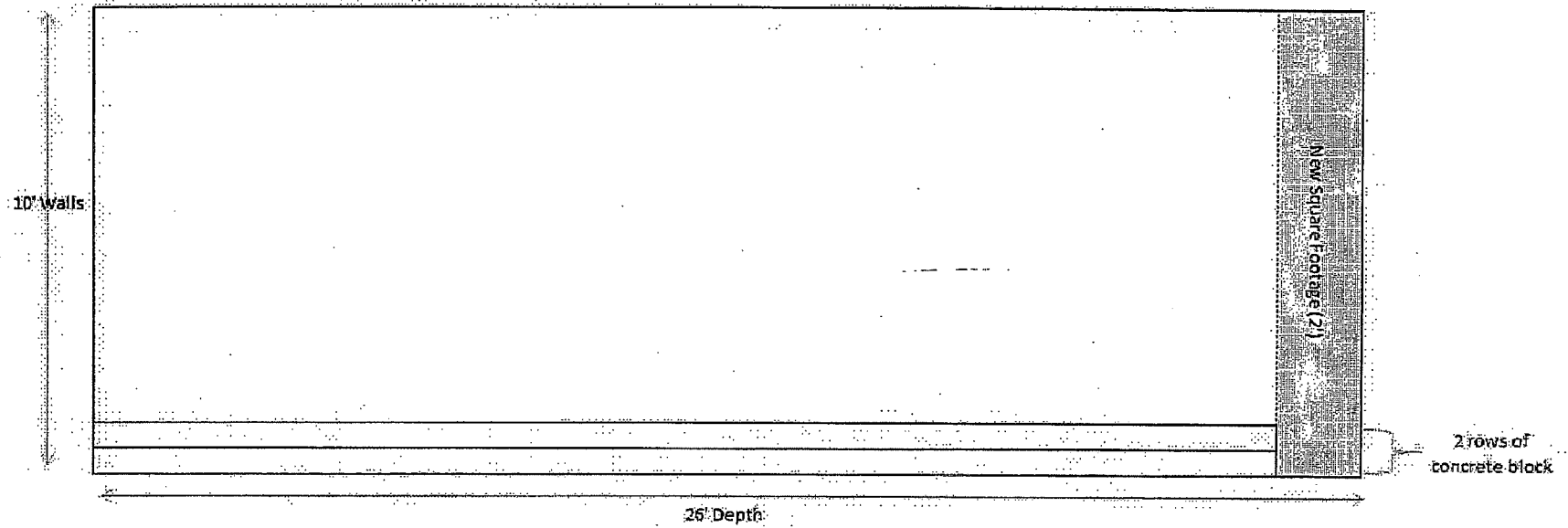
- Existing attached garage – 672 square feet
- Detached shed – 100 square feet
- Detached garage (proposed dimension) – 520 square feet
- Total Square footage – 1,292

Regarding your question below on accessory structures, the boat house down by the lake was removed last summer (2012).

Let me know if you have any further questions.

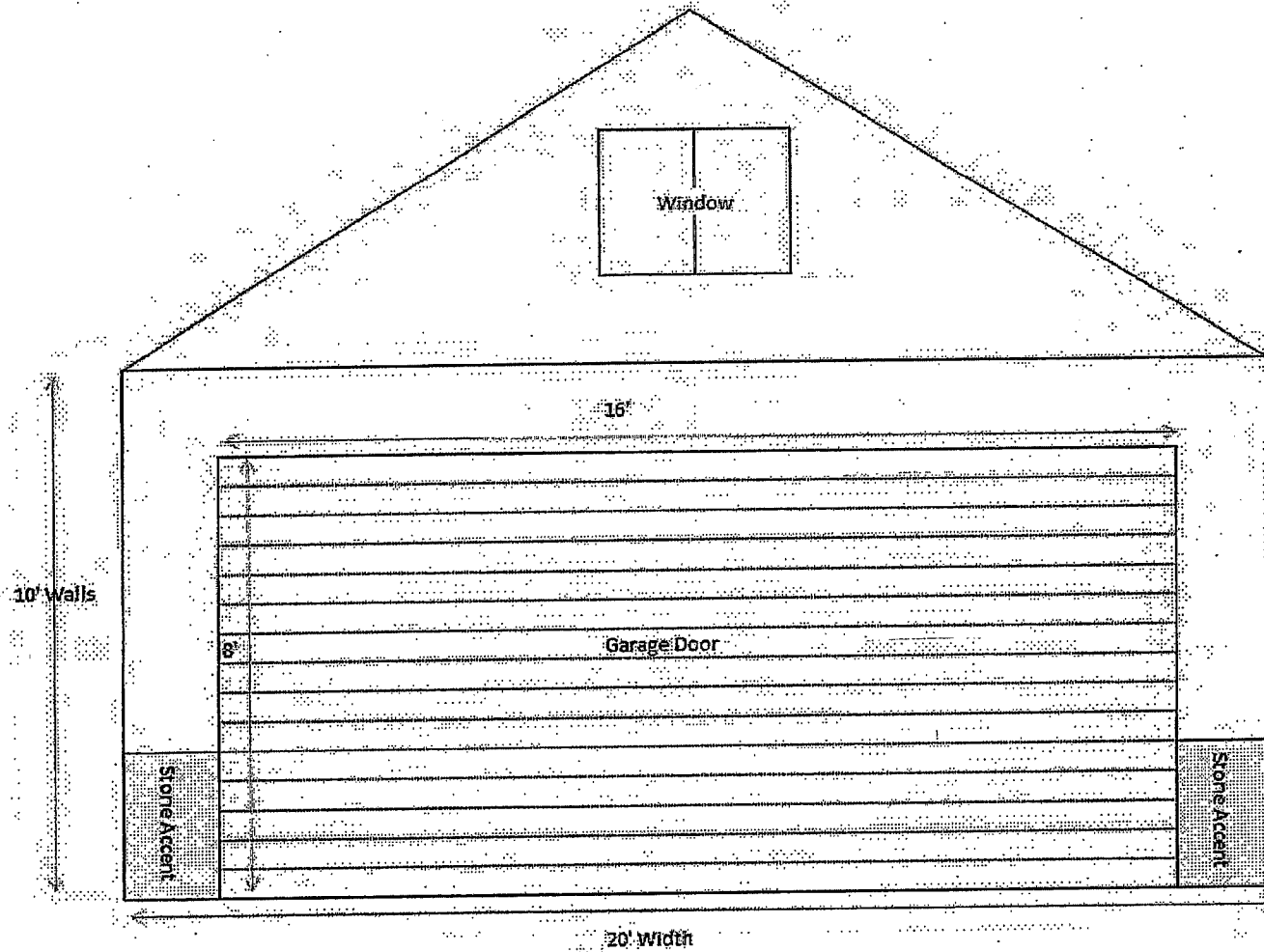


Proposed Garage - Side View



- \*Exterior material will be consistent with existing house (e.g., beige colored metal siding with white window/door trim)
- \*Service door to be included on West side of garage
- \*West side also has existing landscaping (mainly ferns) that will absorb water runoff from garage

Proposed Garage - Front View (South Facing)



\*Stone accents similar to house will be on both sides of the white metal insulated garage door

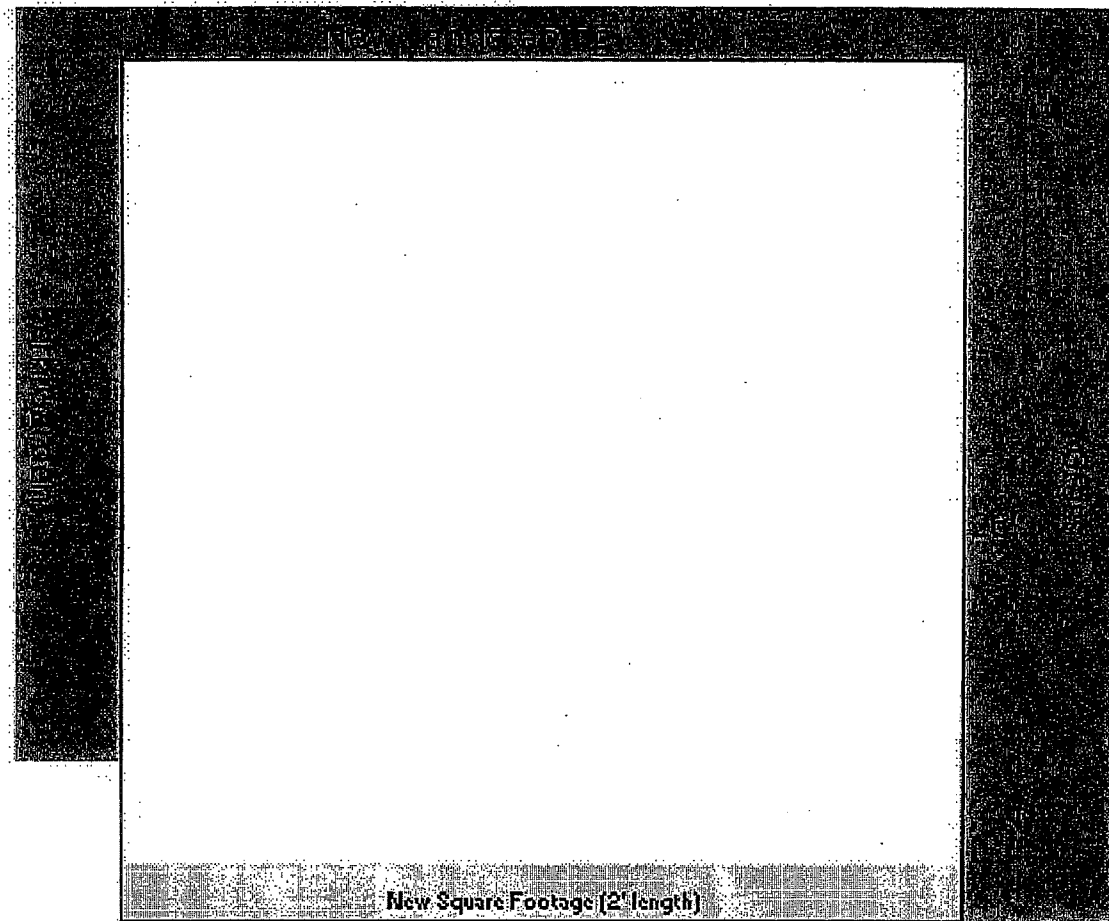
\*Architectural asphalt shingles will be used

Top View

North

West

East



South

20'

New Square Footage (2' length)

Planning Case file: 2488-13-15 - Variance Application  
226 Owasso Lane E - K. Stoss

Comments:

IT IS OK WITH ME.

Name: HERB BIGELBACH

Address: 223 E. OWASSO LANE



Nicole Hill <nhill@shoreviewmn.gov>

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## Request for Comment on Variance request for 226 Owasso Lane East

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Bob Yach <RSYach@comcast.net>  
To: nhill@shoreviewmn.gov

Mon, Jun 17, 2013 at 9:02 AM

Regarding the subject variance request -

Catherine and I have no comment.

Sincerely,  
Robert (and Catherine) Yach  
3205 Woodbridge Street  
Shoreview, MN 55126

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD JUNE 25, 2013**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 13-58 FOR A VARIANCE TO REDUCE THE SETBACK FOR A  
LEGALLY NON-CONFORMING STRUCTURE AND INCREASE THE TOTAL  
ACCESSORY SQUARE FOOTAGE**

WHEREAS, Kevin Stoss and Montserrat Torremorell, have submitted a variance application for the following described property:

All that part of Government Lot 5, Section 36, Township 30, Range 23, described as follows:  
Beginning at an iron monument which is 639.6 feet North and 555.14 feet West of the Southeast corner of said Government Lot 5; thence North a distance of 100.7 feet to a point; thence Northwesterly 342 feet more or less to a point which is 749.6 feet North of the South line of said Government Lot 5; then continue on in same direction 100 feet, more or less, to shore of Lake Owasso, 755.04 feet North of said South line of Government Lot 5; thence Southerly 113 feet, more or less, along shore of said Lake to an iron monument set on shore of said Lake, 642.04 feet North of South line of said Government Lot 5; thence Easterly 440 feet, more or less to point of beginning, except the East 115 feet (measured at right angles to East line), Ramsey County,

Minnesota.

*(This property is commonly known as 226 Owasso Ln E, Shoreview, Minnesota.)*

WHEREAS, the current garage has legal non-conforming setbacks of 4.5 on the east and 5 feet on the north; and,

WHEREAS, the applicant has requested a variance to maintain the setbacks and expand the garage 2 feet to the south; and

WHEREAS, the Development Regulations establish the combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive; and,

WHEREAS, the applicant has requested a variance to increase this to 1,292 square feet; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests.

WHEREAS, on June, 25, 2013 the Shoreview Planning Commission made the following findings of fact:

1. *The property in question cannot be put to a reasonable use if used under the conditions allowed by the City's Development Code.*

In Staff's opinion, the variance request to rebuild the garage in the proposed location represents a reasonable use of the property. City Code permits detached garages as an accessory use. By establishing these provisions, the City deems that a detached garage represents a reasonable use of the property provided Code standards are met. Garages, especially in Minnesota, are needed for vehicle parking and storage of normal household equipment and supplies. Throughout Shoreview, they are a standard feature of detached single family residences. The existing garage can be reconstructed in the same location, provided the square footage remains the same. Since the applicant is proposing to expand the length 2-feet and raise the height of the building, the variances are needed.

The need for the variance request is due to the encroachment on the 10-foot setback from the lot line and the added square footage. Rebuilding the current garage in conformance to the existing setback would result in the garage length being too short to park the boat trailer, thus not alleviating the outdoor storage and parking of the boat/trailer. The current garage is also aligned with the asphalt from the existing driveway so relocating it within the setback would require repaving that portion of the driveway.

The City has discretion in determining 'reasonable use', and in this particular case, staff believes the area of the existing garage does not provide for the parking and storage needs of the homeowner, and that reasonable use is limited by the requirements of the Development Code.

2. *The hardship is due to circumstances unique to the property in question and was not*

*created by the property owner.*

Hardship stems from the uniqueness of the parcel. It is a riparian parcel with a shared driveway and no front lot line. The garage was constructed in 1960 in conformance with City setback regulations at the time. The variance requested will maintain the existing setback, extending it by two feet to the south, and is reasonable due to the location of the existing garage and driveway. The additional two feet expands the accessory square footage total to 1292 square feet. Construction of a detached garage conforming to the 10-foot setback from the lot line would result in a garage that is misaligned to the current shared driveway.

3. *The variance will not alter the essential character of existing neighborhoods*

The existing detached garage does not meet or enhance the character of the neighborhood the tear down and rebuild would be an improvement. The proposed garage would match the architectural style of the current home and would be similar in style and setback to the neighboring garage at 224 Owasso Lane E.

**NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE SHOREVIEW**

**PLANNING COMMISSION** that a variance allowing an additional two feet to the south along the existing non-conforming setback and the total accessory square footage to 1,292 feet is hereby approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

The motion was duly seconded by Council Member \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:



Adopted this 25<sup>th</sup> day of June, 2013

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Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

---

Kathleen Nordine, City Planner

ACCEPTANCE OF CONDITIONS:

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Kevin Stoss

---

Montserrat Torremorell

SEAL

## Exhibit 5B

# EXHIBIT 5B

**PROPOSED MOTION  
TO APPROVE THE VARIANCE  
KEVIN STOSS AND MONTSEERRAT TORREMORELL  
226 OWASSO LANE EAST**

**MOVED BY COMMISSION MEMBER \_\_\_\_\_**

**SECONDED BY COMMISSION MEMBER \_\_\_\_\_**

To adopt Resolution 13-58 approving the variance permitting and extension of two feet along the current legal non-conforming setback and the increased total accessory square footage to 1292. Hardship is present and the proposed project supports the City's housing goals regarding reinvestment and neighborhood preservation. Said approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

This approval is based on the following findings:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. **Reasonable Manner.** In Staff's opinion, the variance request to rebuild the garage in the proposed location represents a reasonable use of the property. City Code permits detached garages as an accessory use. By establishing these provisions, the City deems that a detached garage represents a reasonable use of the property provided Code standards are met. Garages, especially in Minnesota, are needed for vehicle parking and storage of normal household equipment and supplies. Throughout Shoreview, they are a standard feature of detached single family residences. The existing garage can be reconstructed in the same location, provided the square footage remains the same. Since the applicant is proposing to expand the length 2-feet and raise the height of the building, the variances are needed.

The need for the variance request is due to the encroachment on the 10-foot setback from the lot line and the added square footage. Rebuilding the current garage in conformance to the existing setback would result in the garage length being too short to park the boat trailer, thus not alleviating the outdoor storage and parking of the boat/trailer. The current garage is also aligned with the asphalt from the existing driveway so relocating it within the setback would require repaving that portion of the driveway.

The City has discretion in determining 'reasonable use', and in this particular case, staff believes the area of the existing garage does not provide for the parking and storage needs of the homeowner, and that reasonable use is limited by the requirements of the Development Code.

3. **Hardship.** Hardship stems from the uniqueness of the parcel. It is a riparian parcel with a shared driveway and no front lot line. The garage was constructed in 1960 in conformance with City setback regulations at the time. The variance requested will maintain the existing setback, extending it by two feet to the south, and is reasonable due to the location of the existing garage and driveway. The additional two feet expands the accessory square footage total to 1292 square feet. Construction of a detached garage conforming to the 10-foot setback from the lot line would result in a garage that is misaligned to the current shared driveway.
4. **Character of the Neighborhood.** Staff believes that since the existing detached garage does not meet or enhance the character of the neighborhood the tear down and rebuild would be an improvement. The proposed garage would match the architectural style of the current home and would be similar in style and setback to the neighboring garage at 224 Owasso Lane E.

**VOTE:**

**AYES:**

**NAYS:**

## Exhibit 6

## EXHIBIT 6

1. 1620 Hillview Rd: A shed behind garage, too close to the property line. (Permit states garage is 5 ft from property line which would mean shed is closer than 5 ft to property line, no permit for shed was issued to our knowledge based on the information given to us by the city.)



2. 1620-1614 Lois Dr: Houses too close to property line.





3. 1637 Lois Dr: Garage higher than house. The permit for the garage was issued for a height of 13ft, but this garage is noticeably higher than 13ft. It also has an upstairs height of greater than 6'2", but permit shows no upstairs. This property doesn't meet the criteria to be allowed to be granted a variance if 1648 Lois doesn't.



(See Exhibit 9 Pg 1-2)



4. 1663 Hillview Rd: Shed too close to property line and no permit was issued for shed. This garage was just recently built (permit issued in September of 2013), and shed still remains without permit and allowed to be too close to property line.



5. 1687 Hillview Rd: Garage longer than house.





6. 1688 Lois Dr: Large garage, 1008 square feet, without enclosed garage addition, with addition of 11x26 total sq ft of out-building is >1294 and house is only 933 sq ft.



7. 1688-1684 Lois Dr: Garages and driveways too close to property line, unable to find a permit that was issued for the driveway. Requested permits issued for both properties.





8. 1691 Terrace Dr: Very long garage with side door. Garage is 960 sq. ft., House is 912 sq. ft.



9. 1698 Lois Dr: Shed in back too close to property line.





10. 1706 Lois Dr: Addition on back of garage, was there a permit issued? Had wrong address for this home when we requested information from the city.



11. 1715-1707 Lois Dr: Driveways too close to property line





12. 1729-1723 Lois Dr: Driveways too close to property line



13. 1741-1735 Lois Dr: Driveways too close to property line Garage at 1741 is 768 sq.ft with a house of 928 sq. ft. making the garage 83% of the foundation size. In addition, they have a 88 sq. ft shed making the total square footage of accessory structures 856 sq. ft. Found no permit/variance for driveway that is less than 5 ft from the property line. 1735 Lois driveway too close to the property line (no permit found) and garage is less than 5 ft from property line.



14. 1746 Pinewood Dr: Multiple sheds on property, detached garage with at least 2 sheds, with one shed too close to property line (next photo). None of the sheds are documented in the permit information that was given to us by the city.











15. 1768 Pinewood Dr: Multiple sheds, addition to garage. House is 768 sq. ft. On record this property has a garage 20 ft x 24 ft and one shed 10ft x 12 ft. In reality this property has an addition on the garage that is unaccounted for and a smaller shed unaccounted for. The small shed is too close to the property line. The code only allows 2 detached accessory structures. This property exceeds the 75% allowed, and does not include the addition to the garage or the smaller shed.



16. 1774 Pinewood Dr: Two garages on property, no permit issued for smaller garage, that we are able to find. House is 768 sq. ft., large garage 24 ft x 26 ft (624 sq.ft) which is 81% of the dwelling. The smaller garage (no permit issued) is 16 ft x 20 ft (320 sq. ft.). Total square footage in accessory structures is 944, totaling 123% of the dwelling.





17. 1800 Hillview Rd: Addition to garage.





18. 1811 County Rd I: Oversized garage, higher than house.



19. 5547 Shcutta: Garages too close to property line.





20. 5577 Schutta Rd: Shed too close to the property line and no permit was issued.



21. 5592 Schutta Rd: Addition to the back of garage. No permit was issued from what we can see from the information we requested from the city.

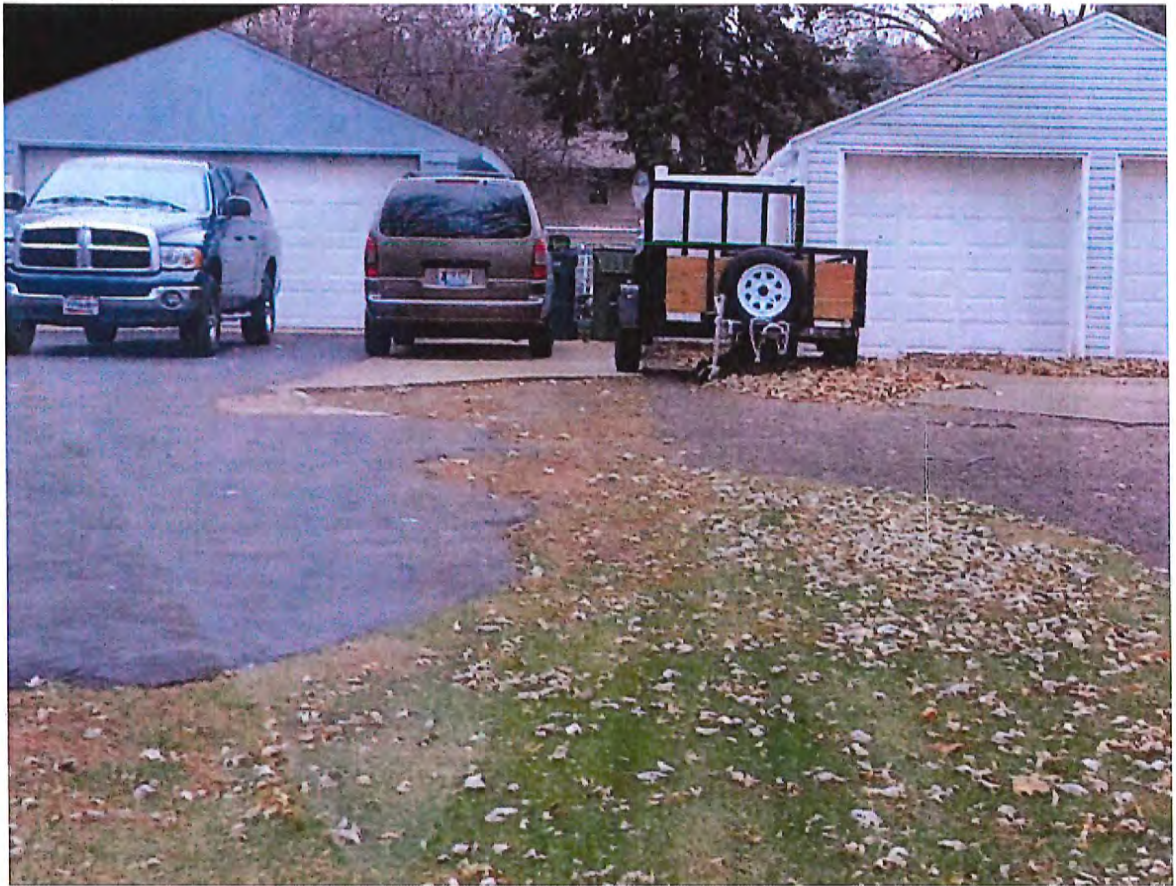




22. 5600-5608 Schutta Rd: Shed right on property line.



23. 5615 Fairview Ave: Driveways and trailer.





24. 5645 Schutta Rd: Oversized garage, higher than house. Permit was issued for this garage with an A frame roof at 13 feet high and it is barn style and much higher than 13 feet and changes the character of the neighborhood.



(see exhibit 9 pg 3-4)

25. 5665 Schutta Rd: Oversized garage, higher than house, and changes the character of the neighborhood.





26. 5100 Alameda: Have a 3 car attached garage with 2 detached accessory structures, one in each rear corner of the property both with concrete driveways and garage doors. The inspection report from August 11, 1993, makes no mention of a permit for either detached accessory structure. Nor does it address the side yard set back for each structure, side yard set back for the driveways leading back to the structures or the rear set back which all appear to be in violation of the code. It merely states, "Steve Nelson please call for shed permit."



(see Exhibit 9 pg 5)



27. 1565 Oakwood: One attached garage and second oversized detached garage on property.



# Exhibit 7

## EXHIBIT 7

1. 5631 Schutta Rd: Truck and trailer parked on lawn





2. 5632 Schutta Rd: Trailers



3. 1746 Pinewood Dr: Trailer on grass





4. 1705 Pinewood Dr: Vehicles on grass





5. 1725 Pinewood Dr: Trailer on grass



6. 1733 Pinewood: Boat on grass





7. 1690 Terrace Dr: Vehicle on grass



8. 5566 Aldine St: Boat on grass





9. 1711 Terrace Dr: Boat and truck on grass



10. 1719 Terrace Dr: Truck, camper, and boat on grass





11. 1755 Terrace Dr: Trailer and junk car on grass





12. 1768 Terrace Dr: Boat on grass



13. 1769 Terrace Dr: Trailer on grass, 4 cars parked in driveway





14. 1699 Oakwood Dr: Trailer and bikes on grass



15. 1601 Hillview: Trailers and miscellaneous property on driveway and grass





16. 1593 Hillview Rd: RV in driveway



17. 1615 Hillview Rd: Trailer on grass





18. 1675 Hillview Rd: Trailer and collectibles on driveway





19. 1731 Hillview Rd: Gravel area with boats and trailer



20. 1736 Hillview Rd: Boat on grass





21. 1742 Hillview Rd: car in lawn



22. 1670 Hillview Rd: Snowmobiles on trailer parked, large garage





23. 1662 Hillyview Rd: Boat on grass



24. 1698 Lois Dr: Camper on grass





25. 5620 Aldine St: RV on grass





26. 1637 Lois Dr: RV on gravel



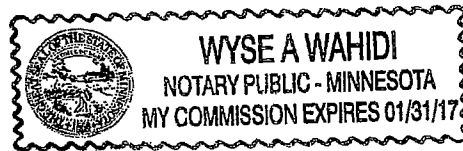
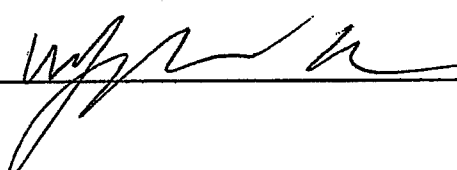
## Exhibit 8

# EXHIBIT 8

## Affidavit

I Michael Morse contacted a contractor from Craigslist on Nov. 6th. He came to my house in early Novemeber 2013, to give me a bid on removing my garage and reconstructing it 3 feet to the East. He called me in mid Novemeber with a bid of forty thousand dollars, which is aproximatly what is already into the structure alone, no legal cost included in that number. I asked him if he could give me something in writing so I could present it to the city. ie a break down of the cost of concrete, lumber, siding, roofing materials etc. He said "no problem" and I have not heard from him since. I did however learn that the cost of moving the structure so it is in compliance with the side yard setback but still keeping the size I desire will cost around forty thousand dollars.

Notary



Michael Morse



12-19-13

written on 12-19-13

## Exhibit 9

Exhibit 9  
**CITY OF SHOREVIEW**  
4600 North Victoria Street  
Building Department  
490-4600

10-17-94  
1-30757

**684/96**

**BUILDING PERMIT NO.**

Date 10-15-96

Work To Be Performed DETACHED GARAGE

PERMISSION IS HEREBY GRANTED

Owner CURTIS PETERSEN Address 1637 LOIS DRIVE

Contractor \_\_\_\_\_ Address \_\_\_\_\_

To carry out the work specified in this permit on the following described property, upon the express condition that said persons and their agents, and their employees, in such work done, shall conform in all respects to the provisions of the Building Code. This permit may be revoked at any time upon the violation of any of the provisions of said code.

BUILD ☐ ADD ☒ ALTER ☐ REPAIR ☐ DEMO ☐ MOVE ☐ ESTIMATED VALUATION 13,000.00

NUMBER	STREET					
1637	LOIS DRIVE					
ZONING	LOT	BLOCK	SUBDIVISION			
1	8	1	EDGETOWN ACRES			
TYPE OF CONSTRUCTION	OCCUPANCY	LENGTH	WIDTH	HEIGHT	STORIES	SQUARE FOOTAGE
V-N	U-1	36'	26'	13'		936 sq ft

COMMENTS

The undersigned hereby makes application for a permit to do Building Work as herein specified, agreeing to do all work in strict accordance with all City and State Codes.

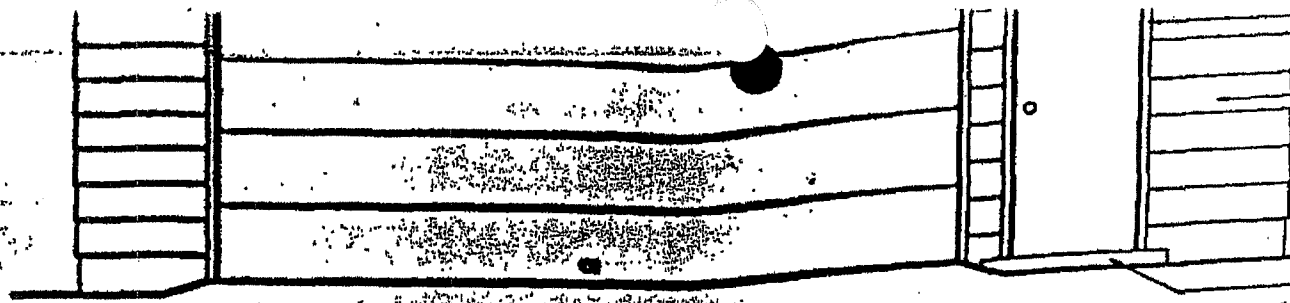
Signed [Signature] Telephone No. 783-0197

**FEES:**

Building Permit <u>199.75</u>	Water Connection _____	Sewer Connection _____
Plan Review _____	Water Source/Supply _____	Sewer Area Connection _____
Surcharge <u>6.50</u>	Water Meter _____	
License Check _____	Meter Tax _____	<b>TOTAL \$ <u>206.25</u></b>
S.A.C. _____		

BUILDING OFFICIAL [Signature] FOR COUNCIL

PENALTY FOR VIOLATION OF ANY OF THE PROVISIONS OF BUILDING CODE: FINE NOT TO EXCEED SEVEN HUNDRED FIFTY DOLLARS (\$750.00) OR IMPRISONMENT FOR NOT MORE THAN NINETY (90) DAYS, OR BOTH.



**TYPICAL LEFT SIDE ELEVATION (TYPE A)**

26'-0" DEEP

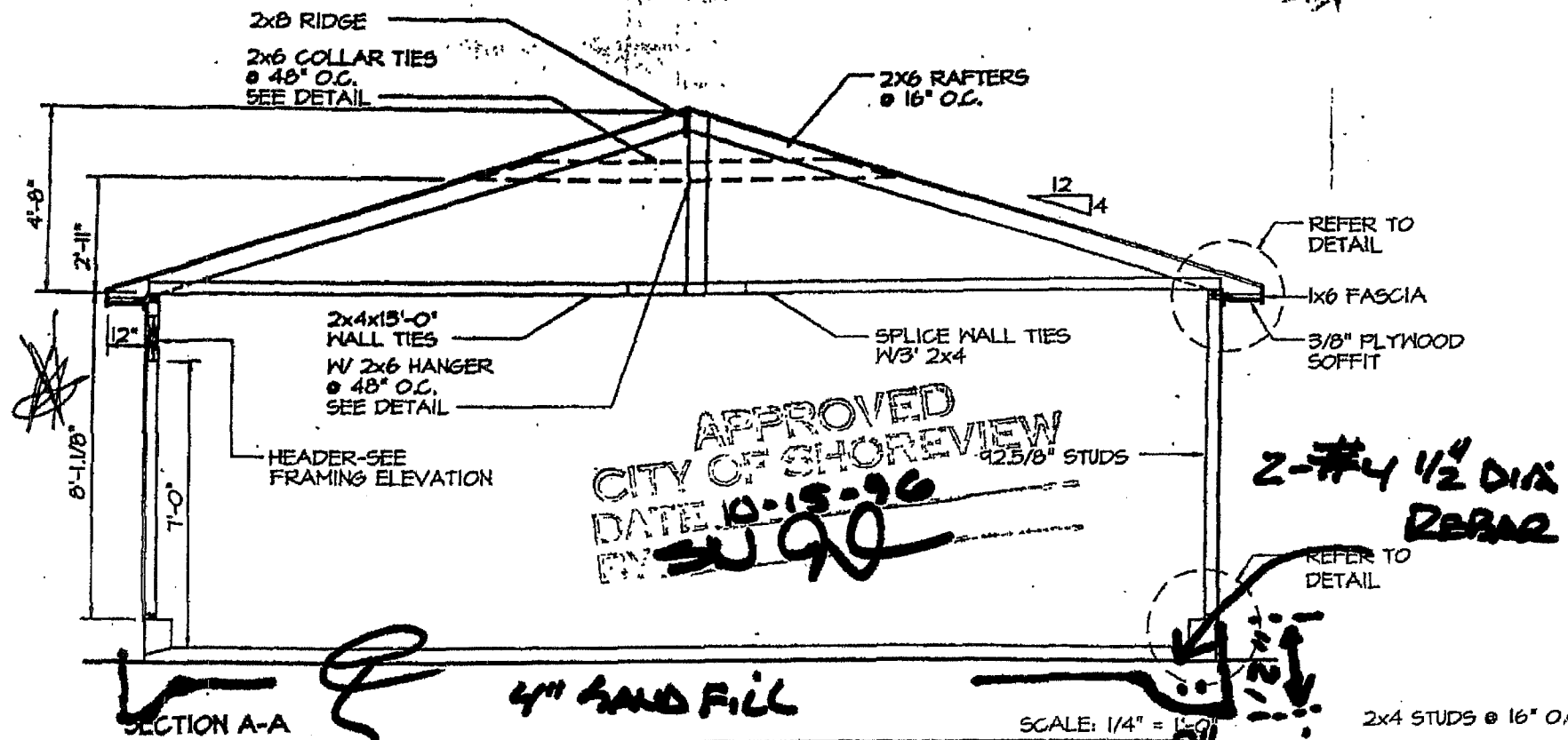
8' WALL HEIGHT

SCALE: 1/4" = 1'-0"

ALL WIDTH OPTIONS

ONE DOUBLE GARAGE DOOR WITH PERSONNEL DOOR

- BRICK MOUNTING @ DOORS AND WINDOWS TYPICAL
- 12" LAP SIDING SHOWN W/10" EXPOSURE
- PRE-FORMED OUTSIDE CORNERS FOR LAP SIDING
- GRADE
- 3'-0" x 3'-0" x 4" CONCRETE STOOP
- REFER TO DETAIL FOR CORNER



**SECTION A-A**

26'-0" DEEP

8' WALL HEIGHT

SCALE: 1/4" = 1'-0"

ALL WIDTH OPTIONS

APPROVED  
CITY OF SHOREVIEW  
DATE 10-15-96  
BY *[Signature]*

**2-#4 1/2" DIA  
REBAR**

**4" SAND FILL**

**MIN 3 1/2" ALAB THICKNESS**

**MIN 2500# CONCRETE**

**REINFORCE w/ WIRE MESH @ 2"**

2x4 STUDS @ 16" O.C.

1/2" PLYWOOD SHEATHING @ FRONT WALL



# CITY OF SHOREVIEW

4665 N. Victoria St.

BUILDING DEPARTMENT

## BUILDING PERMIT No. 176-75

S.A.C. \$  
GARAGE \$ 32.00  
 \$  
 \$  
 Surcharge \$ 2.00  
 Total Fee Collected \$ 34.00

Structure DETACHED  
 Used As GARAGE Zone R-2 Date 7-1-75

PERMISSION IS HEREBY GRANTED

Owner H. J. RYAN Address 5645 SCHUTTA ROAD

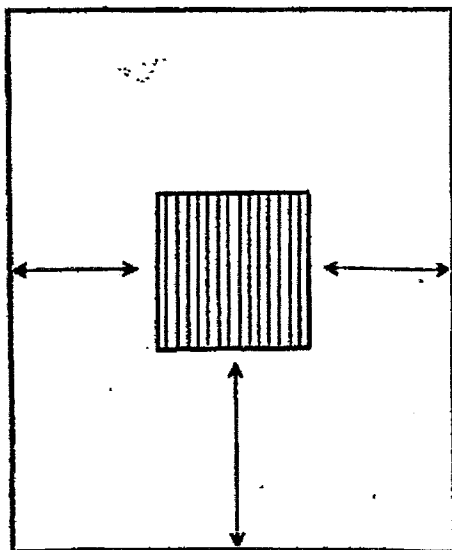
Contractor MILES LUMBER Address 4500 LYNDALE AVE N. MPLS

To carry out the work specified in this permit on the following described property, upon the express condition that said persons and their agents, employees and workmen, in such work done, shall conform in all respects to the provisions of the Building Code. This permit may be revoked at any time upon the violation of any of the provisions of said code.

MARK SQUARES WITH X

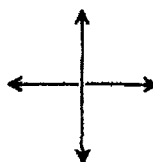
BUILD ☒ ADD ☐ ALTER ☐ REPAIR ☐ MOVE ☐

NUMBER	STREET		SIDE	CROSS STREETS		
5645	SCHUTTA ROAD		W	HILLVIEW ROAD		
DISTRICT	LOT	BLOCK	ADDITION OR TRACT			
	090 51		SEC 4 T30 R23			
FRONT or WIDTH IN FEET	SIDE or LENGTH IN FEET	HEIGHT IN FEET	NO. OF STORIES	AREA OF LOT OCCUPIED	MATERIAL OF CONSTRUCTION	ESTIMATED VALUATION
24	24	13			FRAME	578 SQ FT.



PLAT PLAN

DIRECTION



APPLICATION

The undersigned hereby makes application for a permit to do Building Work as herein specified, agreeing to do all work in strict accordance with the Building Code.

Signed Miles Lumber

By Joseph Shon

LEGAL DESCRIPTION

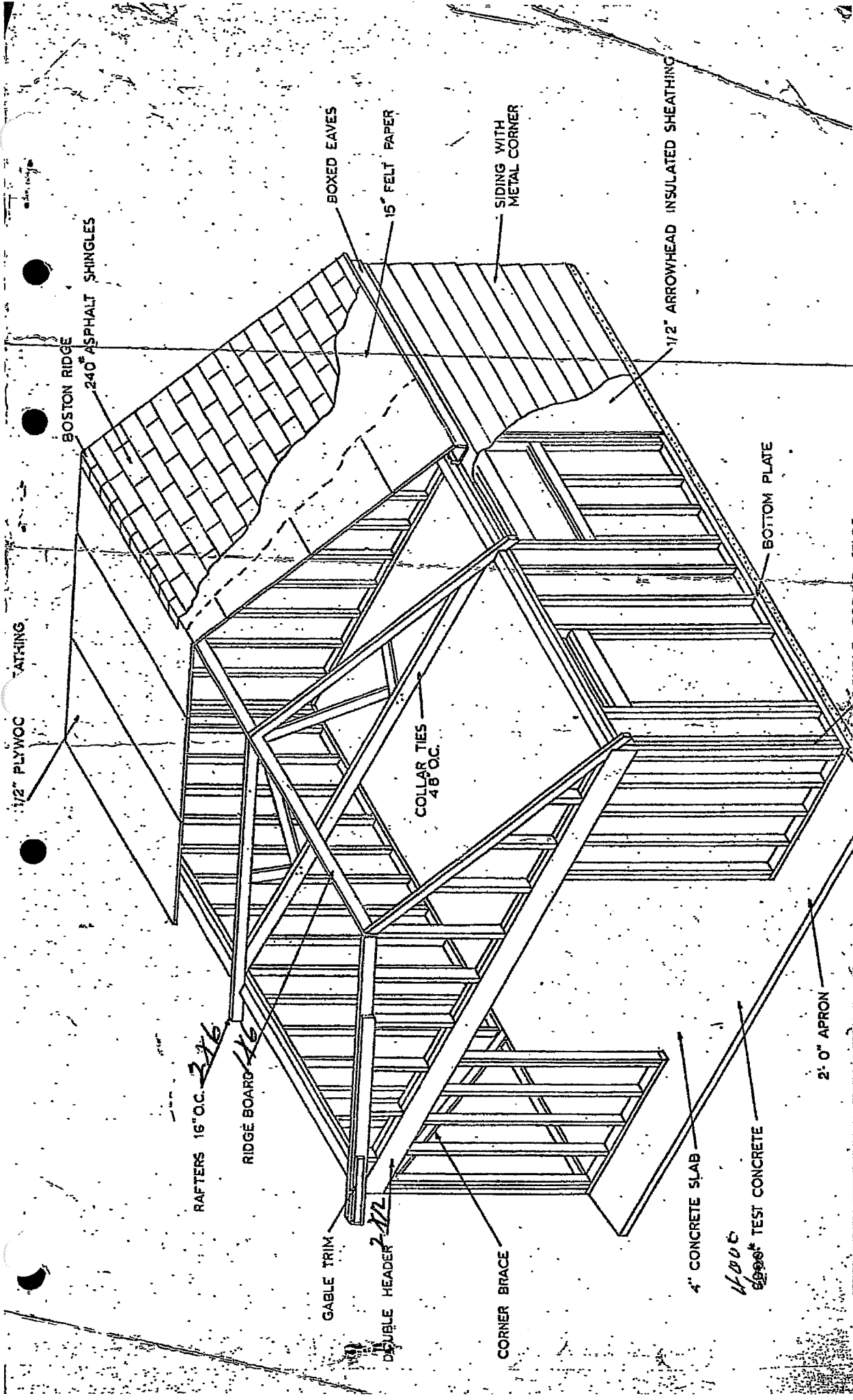
\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

BUILDING INSPECTOR

Thomas Chock For Village Council

PENALTY FOR VIOLATION OF ANY OF THE PROVISIONS OF BUILDING CODE: FINE NOT TO EXCEED THREE HUNDRED DOLLARS (\$300.00) OR IMPRISONMENT FOR NOT MORE THAN THIRTY (30) DAYS, OR BOTH.

PERMITS FOR THE USE OF PUBLIC PROPERTY SUCH AS STREETS, SIDEWALKS, ALLEYS, ETC., MUST BE SECURED FROM THE VILLAGE COUNCIL. ALL BUILDERS MUST CHECK WITH THE VILLAGE ENGINEERING DEPARTMENT FOR SEWER ELEVATIONS BEFORE STARTING NEW BUILDINGS.



INSPECTION REPORT  
CITY OF SHOREVIEW, MINNESOTA  
490-4691

INSPECTION FOR SHED PERMIT DATE \_\_\_\_\_ TIME \_\_\_\_\_

TIME & DATE INSPECTION DESIRED 8-11-73

ADDRESS 5100 Alameda PERMIT NO. \_\_\_\_\_

CONTRACTOR \_\_\_\_\_ TAKEN BY \_\_\_\_\_

Steve Nelson

Please call for  
shed permit

490-4691

If no corrections are listed above, approval is hereby given to proceed. You will be in violation of the ordinance if you do not call for the proper inspections and make correction as called for.

DATE: 12-20-13

CITY OF SHOREVIEW  
4600 N. Victoria Street  
(651-490-4600 / Fax 651-490-4696)

PERMIT # \_\_\_\_\_

**BUILDING PERMIT APPLICATION**

All applicants complete general information and signature section.

One and two family dwelling projects complete Section A or B

Commercial projects complete Section C or D on Reverse or Second Page

**GENERAL INFORMATION**

Site Address: 1648 Lois Dr. Shoreview, MN 55126

Owner: Michael Morse Phone: 651-765-9720

Address: Same

Contractor: myself Phone: \_\_\_\_\_

Complete Address: \_\_\_\_\_ Fax: \_\_\_\_\_

License Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_ Lead Cert Number \_\_\_\_\_

**SIGNATURE**

THIS IS AN APPLICATION FOR A PERMIT. NOT THE ACTUAL PERMIT

THE UNDERSIGNED HEREBY AGREES TO ALL WORK IN ACCORDANCE WITH SHOREVIEW  
CITY CODE AND THE RULING OF THE INSPECTIONS DIVISION

Applicant Signature: [Signature] Work Phone: N/A

Applicant Name (print): Michael Morse Home Phone: 651-765-9720

**A. ONE AND TWO FAMILY DWELLINGS (NEW CONSTRUCTION)**

Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Square Footage: 1<sup>st</sup> Floor \_\_\_\_\_ 2<sup>nd</sup> Floor \_\_\_\_\_ 3<sup>rd</sup> Floor \_\_\_\_\_ 4<sup>th</sup> Floor \_\_\_\_\_

Basement Square Footage: Finished \_\_\_\_\_ Unfinished \_\_\_\_\_ Garage Square Footage \_\_\_\_\_

Valuation of Dwelling Excluding Land \_\_\_\_\_

**B. ONE AND TWO FAMILY DWELLINGS (OTHER)**

Addition \_\_\_\_\_ Deck \_\_\_\_\_ Basement Finish \_\_\_\_\_ Remodel \_\_\_\_\_ Repair \_\_\_\_\_ Reside \_\_\_\_\_ Pool \_\_\_\_\_

Re-Roof \_\_\_\_\_ Driveway \_\_\_\_\_ Fence \_\_\_\_\_ Shed \_\_\_\_\_ Demolition \_\_\_\_\_ Move \_\_\_\_\_ Other \_\_\_\_\_

Explain Project \_\_\_\_\_

Does Project Require Lead Remediation? Yes No Valuation of Project \_\_\_\_\_

If No Explain \_\_\_\_\_

**C. COMMERCIAL/INDUSTRIAL (NEW)**

Use/Occupancy: A-1:\_\_\_ A-2:\_\_\_ A-3:\_\_\_ A-4:\_\_\_ A-5:\_\_\_ B:\_\_\_ E:\_\_\_ F-1:\_\_\_ F-2:\_\_\_ H-1:\_\_\_ H-2:\_\_\_ H-3:\_\_\_ H-4:\_\_\_

H-5:\_\_\_ I-1:\_\_\_ I-2:\_\_\_ I-3:\_\_\_ I-4:\_\_\_ M:\_\_\_ R-1:\_\_\_ R-2:\_\_\_ R-3:\_\_\_ R-4:\_\_\_ S-1:\_\_\_ S-2:\_\_\_ U:\_\_\_

Type of Construction (circle): Type: I II III V AND A or B OR Type: IV HT

Square Footage: \_\_\_\_\_ Sprinkled: Yes\_\_\_ No\_\_\_ Value of Improvement \_\_\_\_\_

**D. COMMERCIAL (OTHER)**

Owner/Tenant: \_\_\_\_\_ Phone: \_\_\_\_\_

Current Address: \_\_\_\_\_

Tenant Finish:\_\_\_\_\_ Addition:\_\_\_\_\_ Alteration:\_\_\_\_\_ Repair:\_\_\_\_\_ Other:\_\_\_\_\_

Explain: \_\_\_\_\_

Occupancy Classification:\_\_\_\_\_ Type of Construction:\_\_\_\_\_ Estimated Completion Date:\_\_\_\_\_

Value of Improvement: \_\_\_\_\_

**FOR OFFICE USE ONLY**

***Approvals:***

FLOOD DETERMINATION: \_\_\_\_\_ ZONE: \_\_\_\_\_ DATE: \_\_\_\_\_

ENGINEERING: \_\_\_\_\_ DATE: \_\_\_\_\_

PLANNING: \_\_\_\_\_ DATE: \_\_\_\_\_

Does/Did this project require City Council or Planning Commission authorization: \_\_\_\_\_ Yes \_\_\_\_\_ No

Did the City Council or Planning Commission impose any conditions of approval: \_\_\_\_\_ Yes \_\_\_\_\_ No

(---If yes attach a copy---)

**FEES**

Erosion Control Escrow \$ \_\_\_\_\_  
Erosion Control Inspection \$ \_\_\_\_\_  
Grading Certificate Escrow \$ \_\_\_\_\_  
Planning and Landscape Escrow \$ \_\_\_\_\_  
Street Repair Escrow \$ \_\_\_\_\_

SAC (\_\_\_\_ Units) \$ \_\_\_\_\_  
Water Connection Charge \$ \_\_\_\_\_  
Water Area Connection \$ \_\_\_\_\_  
Water Source and Supply \$ \_\_\_\_\_  
Water Meter \$ \_\_\_\_\_  
Sales Tax \$ \_\_\_\_\_  
Sewer Connection Charge \$ \_\_\_\_\_  
Sewer Area Connection \$ \_\_\_\_\_

**TOTALS** \$ \_\_\_\_\_

**STANDARD VARIANCE APPLICATION**  
**RESIDENTIAL OR COMMERCIAL**

Return to:

Department of Community Development  
City of Shoreview  
4600 North Victoria Street  
Shoreview, MN 55126  
(651) 490-4680

**Site Identification:**

Address: 1648 Lois dr. Shoreview, MN 55126

Property Identification Number: \_\_\_\_\_

Legal Description: \_\_\_\_\_

**Applicant:**

Name: Michael Morse.

Address: 1648 Lois dr. Shoreview MN 55126  
City State Zip Code

Telephone Number: 651-765-9720 (daytime) SAME (home)

Fax Number: \_\_\_\_\_ E-Mail: Crazymike01@hotmail.com

**Property Owner (if different from applicant):**

Name: SAME

Address: \_\_\_\_\_  
City State Zip Code

Signatures: [Signature] [Signature]  
Applicant: \_\_\_\_\_ Date: 12-20-13

Property Owner: Michael Morse  
[Signature] [Signature]  
Date: 12-20-13

Date Received by City: \_\_\_\_\_ By Whom: \_\_\_\_\_



City of Shoreview  
Shoreview Planning Commission  
4600 Victoria Street No.  
Shoreview, MN 55126

January 17, 2014

Ref: Comments on Variance Request for Michael Morse

I have attended, observed, watched, read and reviewed the City of Shoreview/Planning Commission process for this variance these past years. As I drive around in Shoreview, I find myself paying more attention to what I see in the neighborhoods and compare it to the cities disapproval for Mr. Morse's variance request. I have seen many inconsistencies in the cities approval and disapproval process. I have to admit, it appears we have double standards and the City is trying to make an example of Mr. Morse. You are probably asking why I would suggest such a thing.

At one of the Planning Commission meetings, Mr. Morse explained he had "Practical Difficulties" because his 768 sq. ft. house is too small to store items for his family that has increased from 1 to 4 people. He needed the large garage to shelter his vehicles, toys, lawnmowers, etc. and to make his property look neat and clean. I distinctly remember hearing the city staff members saying to him, "Rent a storage unit for these items." Well, I find that to be a very interesting statement because in my research of other variance requests by Shoreview residence; the city approved their variances stating the same "Practical Difficulties". Some of the other approved variances also involved a reduced side lot set back similar to Mr. Morse's variance request. I have also seen other Shoreview residence requesting variances to build a new garage in the same location as the existing old garage (which was located within less than 5' of the side lot line) because they didn't want to incur costs of removing their old driveway and making a new driveway to line up with the new garage. The city found that to be a "Practical Difficulty" and approved the variance. Mr. Morse has proof (pictures) and has stated his driveway is in the same location as his old garage. The city staff members told him he should move his garage over to the 5' side lot line and redo his driveway to match up with the garage. The list of inconsistencies goes on and on.

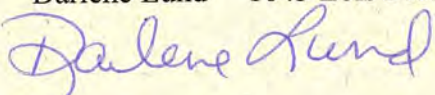
Edgetown Acres is an old Shoreview development and through my research, I have noticed many of the houses/garages are closer to side lot lines than code permits. Codes have changed in past 50-60 years and we work with what we have in this eclectic neighborhood. This area was built using 2 types of rambler homes and a tiny garage. If you look around now, there are many types of styles of homes. There is NO special character in this neighborhood. We have brick veneer homes, dome homes, split levels, attached and detached garages with 2 levels. The city keeps mentioning Mr. Morse garage won't match the character of the neighborhood. What is the character of Edgetown Acres? His garage matches with the old style of the neighborhood much more than many of the other homes and garages do.

The city has dragged this variance process on for so long, one would think they did it purposely to create animosity amongst neighbors. It seems as though the city has a personal vendetta against him. What better way to get negative responses from Mr. Morse's neighbors than to single him out and disapprove variance requests knowingly they've approved many other variances for the same type of request? Privacy fences are placed within inches of the property line. I look at Mr. Morse's garage as a sound proof privacy fence. What would be the difference? It will look much better than many of the privacy fences people install?

Mr. Morse is a young man that is considerate and has helped many neighbors. Those neighbors I am referring to know exactly who and what I am talking about. This vendetta doesn't make the city look good and should reconsider their approach to this matter. Instead of trying to make an example out of a resident, shouldn't we try and work with them. Are you going to make everyone in Shoreview that doesn't comply with the inconsistent rules and codes move their houses, tear down their garages, remove their privacy fences and move their driveways? I totally understand we must live and abide by rules/codes. But if none of the rules/codes are to be broken or changed; than there should never have been variances. All he wants to do is make his home workable for his family and improve his property which brings in more taxes for the city and county which we definitely need.

I would be happy to discuss more of my concerns with the city if they wish to contact me.

Darlene Lund 1643 Lois Drive Shoreview, MN





## **MOTION TO DENY**

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To deny the following variance requests submitted by Michael Morse, 1648 Lois Drive, to retain and finish the partially constructed garage on his property based on the finding that practical difficulty is not present:

1. To exceed the maximum area permitted (75% of the dwelling unit foundation area). In this case, the area of the detached accessory structure is 1,100 square feet exceeding the maximum of 576 square feet permitted.
2. To exceed the combined area of all accessory structures on the property (90% of the dwelling unit foundation). The combined area of all accessory structures is 1,100 square feet exceeding the 691 square feet permitted.
3. To reduce the required 5-foot setback from a side property line to 2.3 feet.

Said denial is based on the following findings of fact:

1. The request does not comply with the spirit and intent of the City's Development Code and Comprehensive Plan due to the proposed size of the detached accessory structure. The accessory structure would become the dominant structure and use on the property and not be subordinate to the principal residential dwelling unit. With the proposed 2.3-foot setback from the side property line, open space between properties is not maintained and space is restricted to maintain the structure from the applicant's property.
2. Reasonable Manner. The applicant can use his property in a reasonable manner as permitted by the Development Code. In accordance with the City's regulations a two-car 576 square foot detached accessory structure and a storage shed could be constructed at the required 5-foot side yard setback. The applicant's proposal is not a reasonable use because the size of the structure is too large in proportion to the house and surrounding structures. Also, it is possible for the structure to be placed further away from the lot line.
3. Unique Circumstances. Unique circumstances are not present as there are other similar size homes in the neighborhood and the Development Code does provide the applicant with options to construct a reasonably sized accessory structure on the property at the required 5-foot side yard setback required from the west side lot line.
4. Character of Neighborhood. The proposed size and mass of the structure, and setback from the western side property line does negatively impact the adjoining property and character of the neighborhood. The residential character of the property is compromised by a structure that exceeds the foundation area of the home. Visual mitigation is not feasible due to the encroachment on the 5-foot side setback required and limited space for landscaping, stormwater management and building maintenance. A review of nearby residential properties reveals that the proposed garage is not consistent with the majority of other detached garages in the neighborhood.

**VOTE:**

**AYES:**

**NAYS:**

Regular Planning Commission Meeting  
January 28, 2014



Kathleen Castle &lt;kcastle@shoreviewmn.gov&gt;

---

**Michael Morse**

---

**Zorislav R. Leyderman** <zrl@zrllaw.com>  
To: Kathleen Castle <kcastle@shoreviewmn.gov>  
Cc: Patrick Kelly <pkelly@kellyandlemons.com>

Thu, Jan 23, 2014 at 10:23 AM

Ms. Castle,

I'm writing for several reasons.

First, do you know at this time what recommendation city staff will provide to the planning commission regarding Mr. Morse's application? My understanding is that, usually, city staff has a recommendation prior to the meeting and I wanted to know whether we could have that recommendation.

Second, I would like to make arrangements for the Jan. 28 meeting to be video-recorded. Could you please let me know whether we will be permitted to have a person come in with a video camera and record the meeting? The video-recording will not interfere with the proceedings in any way and is necessary to obtain a full and complete record of the proceedings for my file.

Finally, I would like to notify the city staff and the planning commission that, in our opinion, the documentation that was submitted as part of Mr. Morse's most recent variance application establishes that the city has unlawfully discriminated against Mr. Morse and has violated his constitutional rights by refusing to grant him permission to complete construction of the garage. We have produced evidence of numerous violations of the city code throughout Mr. Morse's neighborhood that appear unenforced. We have also produced evidence showing that other residents similarly situated to Mr. Morse have been treated favorably by the city while Mr. Morse has been denied permission to complete the garage and was even sued by the city thereafter. We would like to inform the city that if the city denies Mr. Morse's pending request, Mr. Morse plans to file suit for Fourteenth Amendment due process and equal protection violations against all parties involved in this dispute in federal court. Please note that this is not a threat of legal action; rather, I simply would like the city to know our position regarding the evidence that was submitted and to emphasize that granting Mr. Morse's pending application, which includes a modified plan for the garage from the original version, would resolve and immediately conclude this lengthy dispute.

Please feel free to contact me if you have any questions or concerns. Thank you for your attention to this matter.

[Quoted text hidden]

**TO:** Planning Commission

**FROM:** Kathleen Castle, City Planner

**DATE:** January 24, 2014

**SUBJECT:** File No. 2513-14-03, Comprehensive Plan Amendment and Amendment to Planned Unit Development, Olson/Hummingbird Floral - 4001 Rice Street

**REQUEST**

Lugene Olson, the owner of Hummingbird Floral and Gift, has entered into a purchase agreement to acquire the property at 4001 Rice Street for her business. The conversion of this mixed use office/residential structure to retail requires the following approvals from the City.

- 1) Comprehensive Plan Amendment changing the designated land use from OFC, Office to C, Commercial
- 2) Amendment to the Planned Unit Development to convert the structure to a retail commercial use for the floral and gift shop.

Please see the submitted plans.

**BACKGROUND**

In Fall of 2012, the property owner, Joycelyn Company, Ltd received approval to rezone the property from OFC, Office to PUD, Planned Unit Development to convert the office building into a mixed-use structure with office and residential land uses. The primary use, based on intensity, remained office and was consistent with the OFC, Office land use designation in the Comprehensive Plan. Improvements were made to the structure with a portion of the office building converted to one residential dwelling unit. The structure has since been marketed for sale and Lugene Olson of Hummingbird Floral and Gifts has entered into a purchase agreement to acquire the property and convert the lower level to retail use and retain the upper level for storage.

**PROJECT DESCRIPTION**

The property is triangular in shape with .75 acres, bounded by Hodgson Road on the west and Rice Street on the east. This location is adjacent to a church and commercial center, Gramsie Square located on the west side of Hodgson Road. Residential condominiums, Shoreview Estates, are located across Hodgson Road and across Rice Street is a residential area located in the City of Vadnais Heights. The building is approximately 5,400 square feet in size, with 2,400 square feet dedicated to office space and the remaining 3,000 square feet the residential dwelling unit. An off street parking area with 25 stalls is also on-site and has access to both Rice Street and Hodgson Road. The zoning designation is PUD for the mixed office and residential use. The Comprehensive Plan also designates this property for office uses.

The applicant is proposing to convert the lower level of the structure to the retail use and use the second floor for storage. No exterior changes are proposed with the exception of signage and a small outdoor display area.

### **DEVELOPMENT CODE**

The applications have been reviewed in accordance with the criteria for a comprehensive plan amendment and planned unit development. When considering a Comprehensive Plan Amendment, the Planning Commission and City Council shall consider the property, characteristics of the adjoining planned land uses, building mass differences, traffic generation, separation and buffering, and carrying capacity of the site.

An amendment is required to an approved Planned Unit Development if there is a change in use or character of the development. Amendments are processed per the PUD - Development Stage review rules.

### **STAFF REVIEW**

#### ***Comprehensive Plan Amendment***

The applicant is asking the land use designation be changed from OFC, Office to C, Commercial for the retail use. The Office designation is intended for property located adjacent to land planned for residential uses but may also be located in areas surrounded by nonresidential uses. Professional offices, daycare centers, medical and dental clinics and similar uses are intended for these locations. Corresponding zoning districts are OFC, Office, and PUD, Planned Unit Development.

The Commercial designation is intended for a variety of service, office, restaurant, and retail uses ranging in intensity from those that serve the immediate neighborhood to those whose patrons come from outside of the community. The intensity of use chosen for a particular site, through the adoption of a zoning designation, must be compatible with the uses planned for the adjoining property. Each commercial zoning district should include performance standards for uses that would be located near property planned for residential use. Corresponding zoning districts: C-1A, Limited Retail Service; C-1, Retail Service; C-2, General Commercial; and PUD, Planned Unit Development.

The property is adjacent to institutional, low and high density residential and commercial land uses. Furthermore, it sits at the intersection of two primary roadways. In staff's opinion, the conversion of this building into commercial will not significantly and adversely impact *if* the intensity of the commercial use can be controlled. The commercial land use designation covers a wide range of commercial uses that could vary in intensity. Staff does have a concern about the use of this property by those higher intensity commercial uses such as a grocery store or gas station and potential impact on the nearby residential land uses. Lower intensity retail uses that are similar in nature to professional office and service uses may be suitable for this property and not significantly impact the surrounding properties. With the PUD amendment, permitted and prohibited uses can be identified in the Development Agreement to ensure that the land use designation change does not negatively impact the surrounding properties. Language can also be added requiring any change in retail use to be reviewed via an amendment to the PUD.



### ***Planned Unit Development – Development Stage***

Again, the applicant is seeking to amend the existing PUD for this property by changing the land use from mixed use office/residential building to retail. The first floor has approximately 4,200 square feet and will be used for retail sales, flower production/preparation, conference/office and utility space. The upper floor which is approximately 1,200 square feet will be used for storage.

Regarding parking, twenty-five parking stalls are provided on site. For retail uses, a slightly higher parking ratio is required when compared to office uses. When the retail calculation is applied to the first floor and storage (warehousing) is applied to the second floor, 20 parking stalls are required. Based on this, and the information provided by the application regarding parking needs, the number of parking stalls should accommodate the proposed use.

The other issue related to the PUD was previously discussed with the Comprehensive Plan Amendment. Uses should be restricted to those retail uses that have a lower intensity to minimize impacts on the surrounding residential land uses. Any change in use or occupancy would also require an amendment to the PUD. This can be clearly defined with the PUD Development Agreement.

### **PUBLIC COMMENT**

Property owners within 350' were notified of the request. One comment received expressed concerns regarding impact on taxes and traffic on their local roadway. Another comment expressed support for the proposed use.

### **RECOMMENDATION**

The submitted applications for the conversion of the building to a retail use have been reviewed by Staff. The proposed retail use of the property is compatible with the adjoining land uses since it is a lower intensity use. Through the PUD, the City has the ability to restrict permissible uses on the property to minimize potential land use conflicts in the future if the use changes. The Development Agreement will address permissible uses and any future change of use or occupancy. Staff is recommending the Planning Commission forward a recommendation of approval to the City Council with the following conditions attached.

### ***Comprehensive Plan Amendment***

1. The amendment changes the land use designation from O, Office to C, Commercial.
2. Review and approval of the amendment by the Metropolitan Council.
3. The amendment will not be effective until the City grants approval of the PUD - Final Stage request.

### ***Planned Unit Development – Development Stage***

1. The PUD permits the use of this property as C, Commercial for a retail floral and gift store.
2. A maximum of two vehicles used for the business operations may be parked outside.

3. The structure and uses must comply with the Building Code. A Building Permit is required prior to commencing any remodeling work.
4. The property owner shall enter a PUD – Development Agreement prior to occupancy of the building. This Development Agreement shall identify other low intensity retail uses that would be permitted in the building, prohibited uses and change of use or occupancy.

Attachments

1. Aerial Location Map
2. Applicant's submitted statement and plans
3. Request for Comment
4. Motion

T:/2014pcf/2513-14-03olson-hummingbird/pcmemo



# Hummingbird Floral and Gifts



258.0 0 128.98 258.0 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

## Notes

Comprehensive Plan Amendment  
Planned Unit Development

## **Planned Unite Development -Development stage Application**

12/28/13

House of Dreams 4001 Rice Street, Shoreview

By Lugene Olson/Hummingbird Floral & Gifts

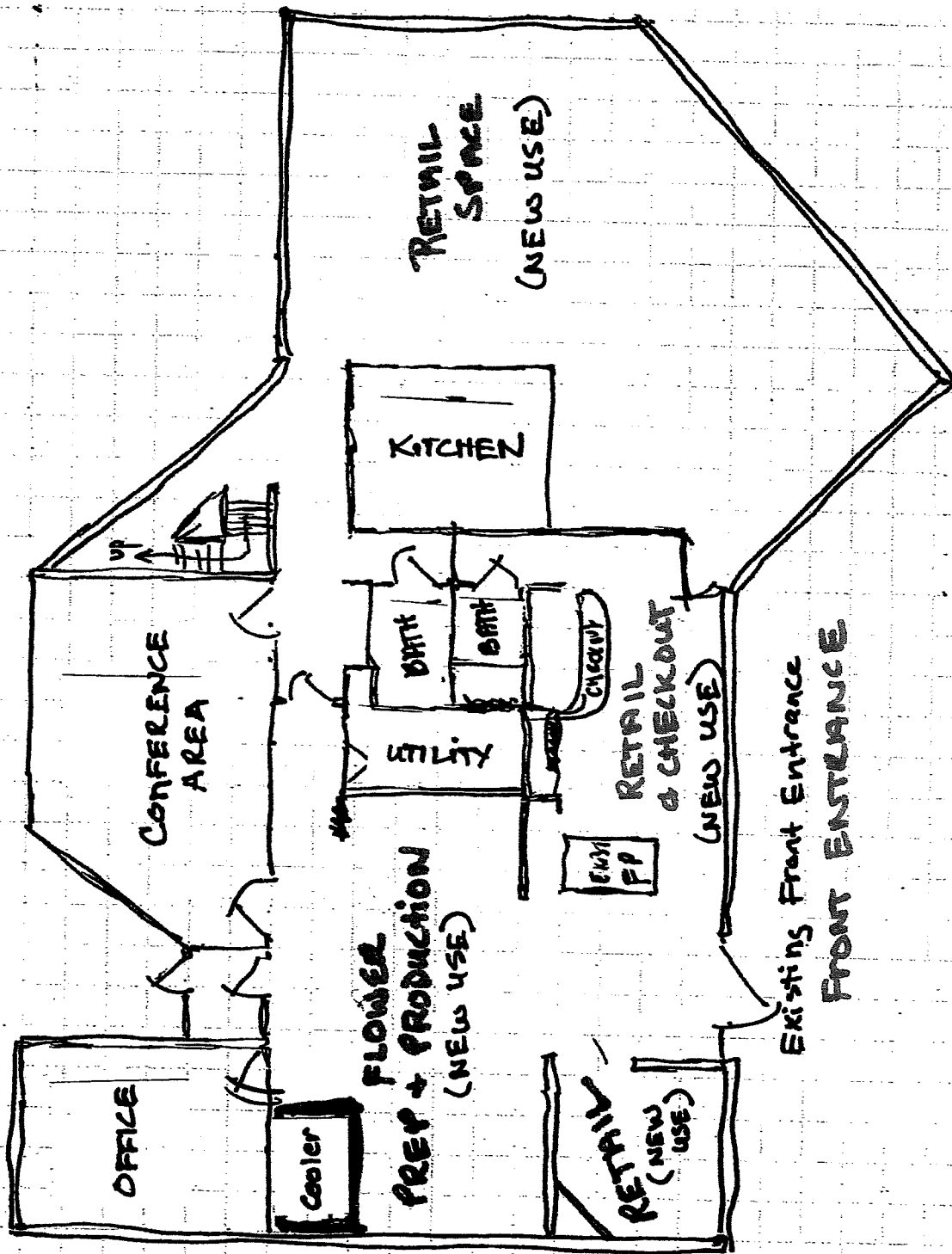
We are requesting that the PUD be amended to allow for a low volume, retail use of the property. Hummingbird Floral & Gifts is a small, community based flower and gift shop. Its mission is to provide high quality flower arrangements, exceptional customer service and unique gifts in a boutique environment. The business is comprised of making flower arrangements, both fresh and permanent and custom baskets. We also design outdoor pots and wreaths for doors. The retail component consists of fresh flowers, small gifts, light home décor, balloons, local artist goods and unique garden items in the summer.

The heart of our business is in floral production and delivery. Over 50% of these arrangements are delivered citywide each day. We use a delivery service for all arrangements delivered outside of the NE corner of the metro area. We take those deliveries to the Midway area once per day. We deliver the rest of the arrangements to approximately 13 local zip codes and have one full time delivery vehicle.

The business employees 2 full time, and 6 part time people with several others used as over flow on major floral holidays. The part time employees have times that overlap so there are usually no more than 5 people working at one time. Sixty percent of the building will be used for cold flower storage, flower production and delivery set up, materials storage and office needs. The rest of the building will be used for customer check out and retail display. The upstairs mezzanine will be for seasonal storage only.

I believe the shop will bring a much-needed bright light to that corner. It will be well maintained with flowers and plants, and we will decorate it to reflect the seasons.





PROPOSED USE  
HUMMINGBIRD FLORAL

12/30/13

1/4" = 3'0"



**GENERAL NOTES**  
1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
2. EXISTING GRADE IS SHOWN BY DASHED LINES.  
3. PROPOSED GRADE IS SHOWN BY SOLID LINES.  
4. SEE CIVIL ENGINEER'S REPORT FOR DETAILED EROSION CONTROL MEASURES.  
5. SEE MECHANICAL ENGINEER'S REPORT FOR DETAILED MECHANICAL SYSTEMS.

Hodgson Road

Rice Street

1  
SITE PLAN

**CENTURY 21 COUNTRY VILLAGE REALTORS**  
**THE PEOPLE WHO MAKE THINGS HAPPEN**

**zuber architects**

an office remodeling for century 21 country village realtors / 4001 rice street / shoreview minnesota / 55112

zuber architects incorporated / 414 mcbride architecture / planning / interior / graphics / 79th street / minneapolis minnesota 55420 / 612.884.5311





Kathleen Castle &lt;kcastle@shoreviewmn.gov&gt;

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**4001 Rice St.**

1 message

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**pat.maietta@comcast.net** <pat.maietta@comcast.net>

Wed, Jan 22, 2014 at 6:48 PM

To: kcastle@shoreviewmn.gov

Cc: bobm@hamernicksdecorating.com

Dear Ms. Castle:

I am thrilled that Hummingbird Floral and Gifts is considering converting the existing building at 4001 Rice Street. What a perfect fit for this prominent corner! Hummingbird has been a proven asset to our community. Myself, my husband Bob, and many of the residents of our 72 condo units, located across the street, welcome the new floral and gift shop. We look forward to the charm and convenience this will add to the neighborhood.

Sincerely,

Pat Maietta  
President of Shoreview Estates Condo Association  
4045 Hodgson Road  
Shoreview, MN 55126



Kathleen Castle &lt;kcastle@shoreviewmn.gov&gt;

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**request for comment**2 messages

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**mary davis** <marybensam@msn.com>  
To: kcastle@shoreviewmn.gov  
Cc: mary davis <marybensam@msn.com>

Sun, Jan 19, 2014 at 10:39 AM

Hi Kathleen,

We have received 2 mailers from the City of Shoreview about the proposed changes to convert the mixed used office/residential building at 4001 Rice Street.

We live in Vadnais Heights, however we are just off the main road from this building on Martin Way.

We are unclear what exactly changing the zoning of this building to commercial would mean to us. We are not able to attend the public hearing 1/28.

If the proposed change would mean ANY additional taxes for us as homeowners, then we are completely AGAINST this.

If this would mean increased TRAFFIC down our street which could potential endanger our children or our pets, then we are completely AGAINST this.

If this would mean a DECREASE in property taxes, that would be helpful.

Again, we are not understanding the ramifications of this proposal and are unable to attend the upcoming meeting.

Please advise,  
Thank you,  
Mary D. and family

---

**Kathleen Castle** <kcastle@shoreviewmn.gov>  
To: mary davis <marybensam@msn.com>

Wed, Jan 22, 2014 at 2:04 PM

Ms. Davis - Thanks for your response. The request is to change the Comprehensive Plan land use designation from OFC, Office to C, Commercial. The zoning, Planned Unit Development, would remain the same. The change in land use designation may permit retail service type uses in this building which differs from the current professional office/residential use. The City is looking are limiting the type of commercial uses to those that are lower intensity.

Questions pertaining to property taxes should be directed to Ramsey County Department of Property Taxation, [651-266-2000](tel:651-266-2000). Since this property is in Shoreview, I do not believe local taxes for Vadnais Heights would be affected.

As far as traffic, there will be no impact on your local street.

Please let me know if you have any other questions.

Kathleen

## **MOTION TO APPROVE**

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To recommend the City Council approve the following requests submitted by Lugene Olson, Hummingbird Floral and Gifts, to convert the existing mixed use office/residential building at 4001 Rice Street to a retail use. Said recommendation for approval is subject to the following conditions.

### ***Comprehensive Plan Amendment***

1. The amendment changes the land use designation from O, Office to C, Commercial.
2. Review and approval of the amendment by the Metropolitan Council.
3. The amendment will not be effective until the City grants approval of the PUD - Final Stage request.

### ***Planned Unit Development – Development Stage***

1. The PUD permits the use of this property as C, Commercial for a retail floral and gift store.
2. A maximum of two vehicles used for the business operations may be parked outside.
3. The structure and uses must comply with the Building Code. A Building Permit is required prior to commencing any remodeling work.
4. The property owner shall enter a PUD – Development Agreement prior to occupancy of the building. This Development Agreement shall identify other low intensity retail uses that would be permitted in the building, prohibited uses and change of use or occupancy.

This approval is based on the following findings:

1. The proposed plan supports the policies stated in the Comprehensive Plan related to land use and economic development.
2. The proposed development plan will not adversely impact the planned land use of the surrounding property provided the intensity of commercial uses is limited through the PUD.

**VOTE:**

**AYES:**

**NAYS:**

Regular Planning Commission Meeting  
January 28, 2014

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**Hummingbird Floral** <hummingbirdfloral@yahoo.com>

Thu, Jan 23, 2014 at 11:45 AM

To: Kathleen Castle <kcastle@shoreviewmn.gov>

Hi Kathleen ,

Hope you are managing to stay warm!!

Here is the info you requested:

1. One delivery vehicle. On holidays we have use private cars so they are never parked overnight.
2. Hours are 8-6:30 M- F. 8:30-5 on Sat. We open for the 4 Sundays ahead of Christmas from 11-3
3. Customer traffic- typical day 5-15 people throughout the day. Peak days (Valentines and Mother's Day) 50 through out the day. On an average day we would have 3-4 people working with one car per person and the delivery van which is usually out delivering during the day. With customers we would be using between 6-9 stalls at any given time with customers and employees.
4. We would have decor (pots of flowers, wreaths and lights) on the outside of the building and in the gardens. We would put a few things for sale, like spinners, outside but they would come in when we close. There will be no outdoor displays because there is too much vandalism for a permanent display.

Let me know if you have any other questions.

Have a great day,

Lugene

Lugene M Olson  
651-815-2398 cell  
651-486-0403 work  
[Quoted text hidden]

Comments:

I think this would be a nice addition to our little corner of Hodgson, Grannie & Rice St.

\* Please pass along my comment of the vacant house on the corner of Rice St. & Co Rd F. It is an eyesore as far as the siding & Window treatments. Rent the owner clean it up and make it a pleasant corner.

Thanks

Sharon

Name: Sharon Newton

Address: 4045 Hodgson (unit # 319)  
Shoreview Estates



## LAKE JOHANNA FIRE DEPARTMENT

5545 LEXINGTON AVENUE NORTH • SHOREVIEW, MN 55126  
OFFICE (651) 481-7024 • FAX (651) 486-8826

January 24, 2014

Department of Community Development  
Attn: Kathleen Nordine, City Planner  
4600 N Victoria Street  
Shoreview, MN 55126

Site and Building Plan Review  
Hummingbird Floral  
4001 Rice Street  
Shoreview, MN 55126

File No. 2513-14-03

- Fire Department Lock Box must remain on the building.
- Verify the use of upper loft area to determine means of egress needs.

Sincerely,

Rick Current  
Fire Marshal  
Lake Johanna Fire Department



**TO:** Planning Commission

**FROM:** Rob Warwick, Senior Planner  
Niki Hill, Economic Development and Planning Technician

**DATE:** January 22, 2014

**SUBJECT:** Subsurface Sewage Treatment Systems, Text Amendments, Chapter 209.090  
of the Municipal Code, City-Wide, File 2514-14-04

## **INTRODUCTION AND BACKGROUND**

In 2006, the Minnesota Pollution Control Agency (PCA) revised the Minnesota Administrative Rules regulating Subsurface Sewage Treatment Systems, (SSTS) commonly known as septic systems. Subsequently, the State Legislature revised state statutes that outline the regulatory framework for counties and municipalities who must provide local administration and enforcement of State requirements. Staff has drafted amendments revising text to remain consistent with these state requirements.

There are currently a total of eleven subsurface sewage treatment systems located in the City (see attached map). The number of SSTS has dropped from over 60 systems in 2000 as the City has extended the municipal sanitary sewer system to cover areas on the margins of the municipal system.

This number is not expected to increase since the Subdivision Regulations require that municipal sanitary sewer and municipal water service be provided to all new lots in the City. Variances to this provision may be approved by the Planning Commission. Staff believes that existing sewer mains will serve future new lots, except for the area along County Road J lying east of Turtle Lake Road where extending the main may be difficult for gravity sewer. Currently four properties located on this section of County Road J are served by SSTS.

## **TEXT AMENDMENT**

The revisions incorporate the minimum technical standards for the design and construction of subsurface sewage treatment systems, and incorporate the administrative functions required by the State.

The revisions do not alter the requirements regarding the maintenance of existing systems. Maintenance consists of pumping solids from the septic tanks at least every three years. Compliance inspections are also required at intervals not to exceed three years. These inspections insure that the system components are intact (no leakage) and operational, and that the separation between the distribution medium and the soils not saturated by the system effluent complies with minimum requirements.

### **Individual Subsurface Treatment Systems (ISTS)**

The systems now present in the City all serve individual residential dwellings and have capacities less than 2,500 gallons per day. Such systems are classified as ISTS. Staff expects that as the existing systems age and must be replaced, individual systems will again be installed, unless municipal sanitary sewer is available and then connection will be required and the SSTS will be abandoned.

### **Midsized Subsurface Treatment Systems (MSTS)**

The State regulations for midsized systems are also incorporated into the text by reference. These provisions regulate systems that serve a group of dwellings to share a single treatment system with a capacity that does not exceed 10,000 gallons per day. While there are no systems of this size currently in the City, staff believes that adopting the regulations is prudent to provide for future potential use of these in addition to individual systems.

### **Disclosure**

State law requires that property sellers provide buyers with a disclosure describing the method used to treat sewage generated on the property. While the disclosure identifies the presence of an existing system, the law does not require the seller provide the buyer with a Certificate of Compliance stating that the SSTS has been inspected by a licensed technician and found to be operating in a manner that complies with municipal and state regulations. Municipalities can require more strict standards, and staff has included text requiring property sellers to provide a Certificate of Compliance to buyers. While staff does believe this provision will provide a benefit, there is a concern regarding the administration of this requirement. See attached PCA "Guide to Subsurface Sewage Treatment System Disclosure at Property Transfer" for further information.

### **Other Provisions**

The ordinance contains details on administrative procedures for processing permits, enforcing the ordinance, and provisions regarding maintaining existing systems.

### **STAFF DISCUSSION**

The technical requirements for subsurface sewage treatment systems are specified in Rules, Chapter 7080 and 7081 which are adopted by reference into City Code. Adopting these technical standards by reference frees the City from having to amend the Code in the event the PCA revises State standards. Other provisions included in the draft text are elements of State regulations that are required in local regulations, except for the Disclosure regulations as previously discussed. The proposed text does not vary from the standards of State Rules.

State Rules also mandate that the City administer the SSTS program with personnel certified in accordance with PCA standards. The Building Official has obtained the necessary training and certification in design, inspection and program administration.

### **PUBLIC COMMENT AND AGENCY REVIEW**

Notice of the public hearing was published in the City's legal newspaper. No comments have been submitted in response to the published notice.

Notice was also mailed to the owners of the properties currently served by subsurface sewage treatment systems. Two of the recipients called to verify that the amendments would not affect use of the existing ISTS, and both also inquired about the feasibility of connecting to the municipal sanitary sewer.

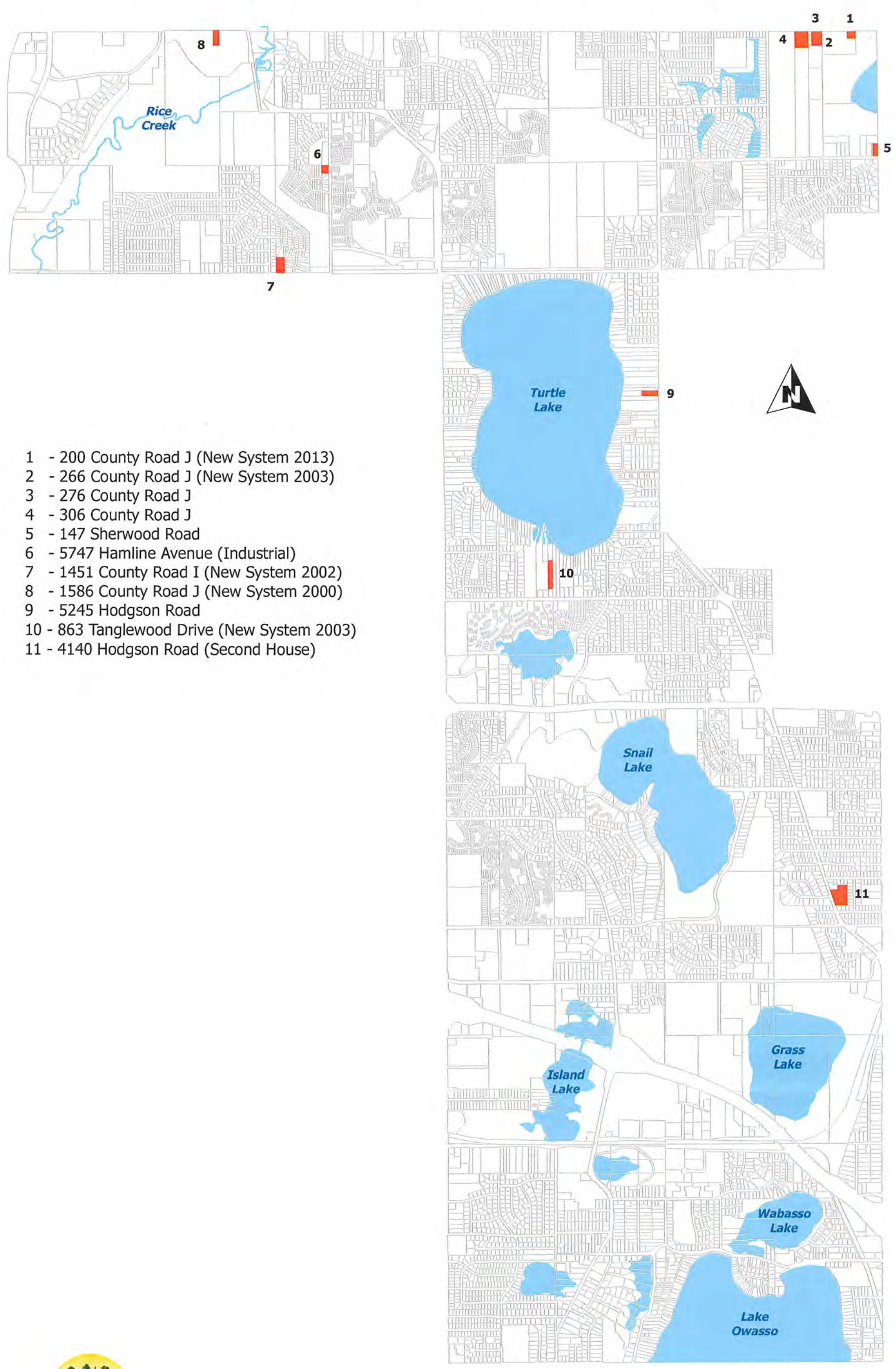
### **RECOMMENDATION**

The proposed text is intended to comply with State requirements. Staff recommends the Planning Commission hold the public hearing, review the draft text and make a recommendation to the City Council for approval.

#### **Attachments:**

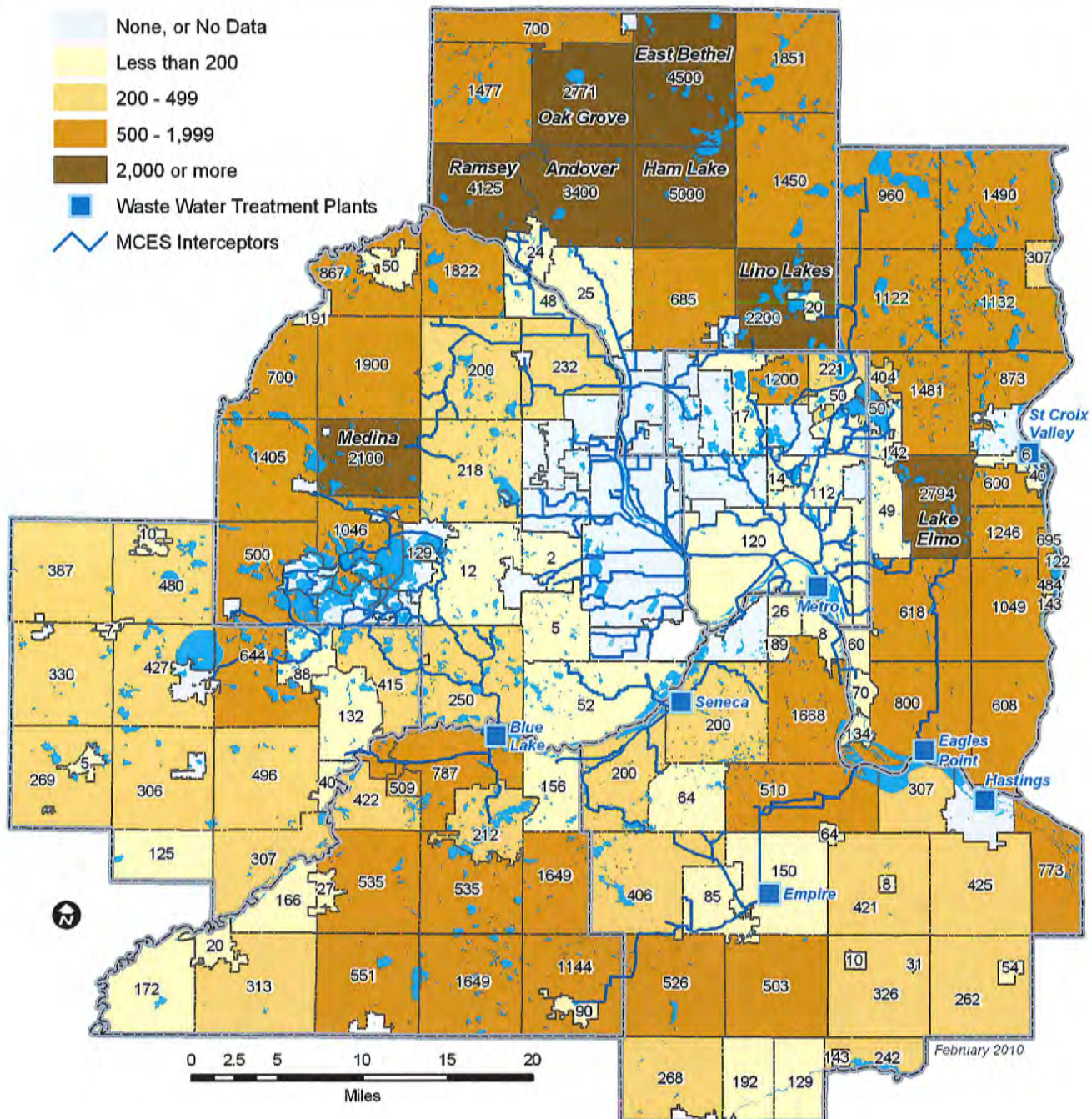
1. Draft Text
2. Map, Shoreview SSTS Locations
3. Map, Metropolitan Area SSTS locations
4. PCA Guide to Subsurface Sewage Treatment System Disclosure at Property Transfer
5. Motion

# Subsurface Sewage Treatment Systems





# Estimated Number of Septic Systems by Community, 2010





Minnesota  
Pollution  
Control  
Agency

# Soil-Based Sewage Treatment Systems

## Facts About Subsurface Sewage Treatment Systems

Wastewater/Individual Sewage Treatment Systems #1.11 • June 2008

### Introduction

Subsurface Sewage Treatment Systems (SSTSs) are commonly known as septic systems. They are soil-based treatment systems used by homes and businesses which are not connected to municipal sewer. SSTS were formerly called Individual Sewage Treatment Systems (ISTS). Even though their name has changed, their purpose has not; to treat and dispose of the wastewater generated on site each day by non-municipal homes and businesses.

The wastewater contains sewage, which in turn contains bacteria, viruses, parasites, nutrients and some chemicals. Therefore, proper treatment and disposal is necessary to minimize the potential for disease transmission and environmental contamination from the sewage.

### How SSTSs treat sewage

SSTSs treat sewage through a combination of biological, physical and chemical processes. They are designed to account for the daily wastewater flow, the type of distribution system (gravity or pressure), soil conditions of the site, and need the development of a biological layer (a biomat) for proper wastewater treatment. When properly designed, constructed and maintained they provide a high degree of sewage treatment and are a proven method of controlling the negative environmental effects of untreated sewage.

A typical SSTS consists of a septic tank followed by one of many different types of

a soil-based treatment system, such as a mound, trench or at-grade drainfield.

### The septic tank

A buried, watertight septic tank is the first component of a SSTS. Sewage is piped from a home or business to the septic tank, which is sized to retain wastewater for 24 to 36 hours. This retention time allows three distinct layers to develop inside the tank:

- The heavier solids sink to the bottom.
- The lighter greases, fats, and soaps float to the top.
- The remaining middle layer (effluent) flows out to the drainfield for final treatment.
  - The amount of effluent that flows out to the drainfield will equal the amount that flows into the tank each day.

Baffles inside the tank at the inlet and outlet connections help prevent the heavier and lighter layers traveling to the drainfield, where they can clog the distribution pipes and cause premature drainfield failure. Over time, these heavier and lighter layers will accumulate, and must be removed at regular tank pumping intervals.



Bacteria inside the tank begin the biological process of breaking down the organic matter in the sewage. The tank bacteria are anaerobic, meaning they do not need oxygen. Anaerobic processes provide some treatment, but are not as efficient as aerobic (with oxygen) processes.

The septic tank alone does not remove all the microorganisms and pathogens. Research results indicate that effluent leaving the septic tank contains high counts of bacteria (about 1,000,000 colonies per 100 ml). Therefore, the effluent must be further treated. In conventional SSTS, this occurs in the soil treatment system.

### **The soil treatment system**

The effluent flows from the septic tank to the soil treatment system either by gravity or by being pumped. Once in the soil treatment system, the effluent moves through the distribution pipes across and down through the distribution medium to its base. Here, at the interface between the distribution medium and the underlying soil, a sticky biological layer (biomat) forms.

The biomat acts as a valve to slow the rate of effluent flow into the underlying unsaturated soil, and further filters out pathogens and solids. The biomat can slow effluent movement to as much as 100 times less than its normal flow rate; this helps maximize the contact time between the effluent and the surrounding soil particles.

Soil particles are negatively charged. Through a process called adsorption, they attract and hold the positively charged pathogens in the effluent. Once held, the pathogens are easily available to the aerobic bacteria in the air pockets between the soil particles. The aerobic bacteria, which are much more efficient than the anaerobic bacteria in the septic tank, continue treatment. Other forms of bacteria also begin to grow, producing slimy films over the soil particles which act as additional filters to “grab” pathogens.

As an example: a gravity-fed trench SSTS with a mature biomat will frequently have ponded effluent in the trench while the soil a few inches outside of and below the trench will be unsaturated. This type of environment promotes effective effluent treatment by aerobic bacteria in the soil. If the soil has a limiting condition such as a high seasonal water table, known as a periodically saturated zone in the soil, effective soil treatment does not occur.

It is important to properly site the SSTS with the existing soil conditions to ensure maximum treatment occurs.

If the bottom of a SSTS is at or near the highest level of the periodically saturated zone in the soil, there will be a ‘less aerobic’ condition in the soil. This situation reduces the treatment effectiveness and increases risk of contamination. Also, being at or near the periodically saturated zone allows pathogens to move quickly through the soil without being adsorbed or filtered, thus polluting the shallow ground water. The shallow ground water can then infiltrate into deeper aquifers, contaminating wells or discharging into lakes and streams, where the public can come into contact with disease-causing organisms.

### **More information**

For additional SSTS information, please visit our Web site at <http://www.pca.state.mn.us/programs/ists/> or call us at 651-296-6300, toll free 800-657-3864.



Minnesota  
Pollution  
Control  
Agency

# Guide to Subsurface Sewage Treatment System Disclosure at Property Transfer

Water Quality/Wastewater #6.11 • September 2008

## **W**hat does the law require for Subsurface Sewage Treatment System (SSTS) disclosure?

Minn. Stat. §115.55, subd. 6, requires a property seller disclose, in writing, to the buyer how sewage generated at the property is managed. This applies whether the sewage goes to a permitted facility, or to an on-site SSTS.

The disclosure must be made by delivering a written statement to the buyer or transferee that:

- the sewage goes to a facility permitted by the agency, or
- the sewage does not go to a permitted facility, is therefore, subject to applicable requirements, and describes the system in use, including the legal description of the property, the county in which the property is located, and a map drawn from available information showing the location of the system on the property to the extent practicable. Additionally, if the seller or transferor knows that an abandoned SSTS exists on the property, the disclosure must include a map showing its location. In the disclosure statement, the seller or transferor must indicate whether the SSTS is in use and, to the seller's or transferor's knowledge, in compliance with applicable sewage-treatment laws and rules

## **Is a disclosure the same as a compliance inspection?**

No. A SSTS disclosure is different than a compliance inspection. A disclosure describes, to the best of the property owner's knowledge, the location of a SSTS on the property and what condition it is in. A compliance inspection is conducted by a specifically trained and licensed individual to determine if the SSTS is in compliance with state regulations. A disclosure is *not* a compliance inspection and cannot be used as a substitute.

While state regulations do not require a compliance inspection prior to property transfer, many local ordinances, especially in shoreland areas, may have this requirement. Always check with your Local Government Unit (LGU) first to see if they have this requirement. Additionally, lending institutions may require compliance inspections for some properties.

## **What if the information is not disclosed or the seller provides false information?**

Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose the existence or known status of an SSTS at the time of sale, and who knew or had reason to know of the existence or known status of the system, is liable to the buyer

or transferee for costs relating to bringing the system into compliance with the SSTS rules and for reasonable attorney fees for collection of costs from the seller or transferor. This action must be commenced within two years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the system is located.

### **Need more information?**

For more information on the Minnesota Pollution Control Agency's SSTS program, please visit our Web site at [www.pca.state.mn.us/programs/ists/](http://www.pca.state.mn.us/programs/ists/) or call us at 651-296-6300, or toll free at 800-657-3864, please ask for SSTS staff.

**209.090 IndividualSubsurface Sewage Treatment Systems.**

- (A) Connection to Public Sanitary Sewer Required. Existing structures with individualsubsurface sewage treatment systems (ISSTSs) must, upon the availability of the public sanitary sewer to the property, hook up to the public sanitary sewer system within one year. However, if a completely new ISSTS was installed within the five-year period prior to the availability of public sanitary sewer, connection will not be required for up to 5 years, provided the system is maintained in accordance with the provisions of this Section and unless at any time the ISSTS is determined to be an imminent threat to public health.
- (B) Standards adopted by reference. The City hereby adopts, by this reference, Minnesota Rules, PartsChapters 7080 and 7081.0020 and 7080.0060 to 7080.0178, 7080.310 and 7080.315 as now constituted and from time to time amended, relating to the construction, maintenance, permitting, inspection and abandonment of ISSTS. ~~The City also adopts, by this reference, Minnesota Rules, part 7080.0179. For systems proposed under Minnesota Rules, parts 7080.0172 (Alternative Systems), 7080.0178 (Other Systems) and 7080.0179 (Performance); see Section 209.090(C)(2) below.~~
- (C) Variances
- (1) Variances to the building setbacks established in this Section 209.090 mayshall be grantreviewed in accordance with Section 203.070 (Variances) of the Shoreview Development Regulations and Minnesota Rules Part 7080.0305, Subpart 3, except that variances to well and water line setbacks are governed by the Minnesota Department of Health.
- ~~—(2) ISTSS proposed under Minnesota Rules Parts 7080.0172 (Alternative Systems), 7080.0178 (Other Systems) and 7080.0179 (Performance) require approval of a variance in accordance with Section 203.070 (Variances) of the Shoreview Development Regulations. In addition to the findings required in Section 203.070(C), approval of a system under these parts requires the following additional findings:~~
- ~~—(a) That installation of a standard system would be unreasonable, impractical or not feasible, and~~
- ~~—(b) That the proposed system or technology will not have a negative impact on public health and safety or the environment.~~
- (32) Variance requests must include the following additional information:



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- (a) Specific information on ~~the alternative system and/or technology proposed or specific language in the~~ Minnesota ~~R~~Rule or ~~R~~Rules from which the variance is requested.
  - (b) Reasons why the rule is difficult or inappropriate.
  - (c) A description of the ~~hardship~~practical difficulty (See Section 203.070(C) for definition of ~~hardship~~practical difficulty) that prevents compliance with the setback ~~rule or use of standard ISTS technology~~.
  - (d) How the variance ~~or alternative system~~ will ensure a comparable degree of protection to public health or the environment if the variance is granted.
  - (e) The length of time for which the variance is requested.
  - (f) Cost considerations.
  - (g) Proximity of the system to other systems.
- (4) ~~As a condition of variance approval, a monitoring and mitigation plan must be required in accordance with Minnesota Rules, part 7080.0310, Subpart 7.~~
- (D) Definitions. See Minnesota Rules Part 7080.~~0020~~ ~~(Definitions)~~ for definitions of terms used in this section.
- (E) New and Replacement Systems.
- (1) New or replacement ~~I~~ISTSs may be permitted for detached single-family residential dwellings where it is clearly shown that there ~~is a hardship or are~~ practical difficulties in the extension of public sanitary sewer service to the structure as determined by the City Manager or his/her designee, provided the property is at least one acre in size. Installation of new or replacement ~~I~~ISTS on a property less than one acre in size requires approval of a variance in accordance with Section 209.090(C) above.
  - (2) All new or replacement ~~I~~ISTSs must be sited, designed, installed, permitted, ~~and inspected,~~ and operated in accordance with Section 209~~0~~.090(B).
  - (3) New or replacement ~~I~~ISTSs shall be setback at least 150 feet from Ordinary High Water Line of Natural Environmental Waters and at least 50 feet from the Ordinary High Water Line of General Development Waters.
  - (4) New or replacement ~~I~~ISTSs shall not be located in a floodway, and placement in a floodplain shall be avoided. If no alternative exists, a system is allowed to be placed within the flood fringe, provided the requirements of Minnesota Rule 7080.2270 are met. ~~must be designed to minimize or eliminate~~



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~~infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding.~~ Any sewage treatment system designed in accordance with Section 209.090(B) shall be determined to be in compliance with this section.

- (5) On lots created after January 23, 1996, the system design shall include at least one designated additional soil treatment area that can support a standard soil treatment system.

(6) Holding Tanks. Holding tanks may be allowed for the following applications:

(a) As a replacement to a failing system; or

(b) As a replacement for an SSTS that poses an imminent threat to public health and safety.

(c) The owner of a holding tank shall provide the City Manager with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents. A valid maintenance contract shall remain in effect for the life of the holding tank.

(7) Privies Not Allowed. Privies and other toilet waste treatment devices used for primitive dwellings are not permitted.

(8) Operating Permit. An Operating Permit shall be required of all owners of new holding tanks, Type IV Systems, Type V Systems, MSTs, or any other system deemed by the City to require operational oversight. Sewage shall not be discharged to these systems until the City certifies that the system was installed in substantial conformance with the approved plans, receives the final record drawings of the system, and a valid Operating Permit is issued to the owner.

(a) The City shall review the record drawings, operation and maintenance manual, management plan and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness prior to issuance of an Operating Permit.

(b) The Operating Permit shall include the following:

(1) System performance requirements

(2) System operating requirements

(3) Monitoring locations, procedures and recording requirements



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(4) Maintenance requirements and schedules

(5) Compliance limits and boundaries

(6) Reporting requirements

(7) Department notification requirements for non-compliant conditions

(8) Valid contract between the owner and a licensed maintenance business

(9) Disclosure, location and condition of acceptable soil treatment and dispersal system site

(10) Descriptions of acceptable and prohibited discharges

(c) Operating Permits shall be valid for a specific term, as determined by the City, and shall be renewed prior to its expiration. If not renewed, the City may require the system to be removed from service or operated as a holding tank until the Permit is renewed. If not renewed with ninety (90) days of the expiration date, the City may require that the system be addondoned in accordance with Section 209.090(K).

(F) Existing Systems.

- (1) Any modification, repair, alteration or expansion of an existing ~~IS~~STS must be designed, installed, constructed, permitted, ~~and~~ inspected, and operated in accordance with Section 209.090(B).
- (2) All existing individual sewage treatment systems are required to be maintained in accordance with Section 209.090(~~BE~~).
- (3) A Certificate of Compliance must be provided before a building permit ~~or variance to the Development Regulations~~ can be approved for a bedroom replacement ~~or addition~~ on properties served by individual sewage treatment systems if the application is received between May 1<sup>st</sup> and October 31<sup>st</sup>. For applications received between November 1<sup>st</sup> and April 30<sup>th</sup>, a compliance inspection must be completed by the following June 1<sup>st</sup> and a Certificate of Compliance received by the City by ~~September~~September 30<sup>th</sup>. If the existing individual sewage treatment system was installed between May 27, 1989 and January 23, 1996, and an inspection triggered by this requirement determines the system is noncompliant but not an imminent threat, the property owner has 5 years to bring the existing system into compliance.

(G) Maintenance.



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- (1) Existing ISSTSs must be inspected at least every three years in accordance with ~~Minnesota Rules, part 7080.0175~~Section 209.090(B). Such inspections shall be conducted by an inspector licensed by the Minnesota Pollution Control Agency at the expense of the property owner. Inspection reports must be submitted to the City within 30 days of the inspection date.
- (2) Septage must be removed from existing ISSTSs at least every three years in accordance with Minnesota Rules, part 7080.~~24500175~~, Subpart 3. Such material removal shall be conducted by a business licensed by the Minnesota Pollution Control Agency at the expense of the property owner. Evidence of material removal must be submitted to the City within 30 days ~~from of the removal date when the work is performed.~~

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(a) Septage or any waste mixed with septage must be disposed of in accordance with state, federal or local requirements for septage

- (3) Noncompliance with these maintenance provisions shall be treated as a misdemeanor and each day in violation shall be treated as a separate offense.

(H) Failing Systems.

- (1) A Notice of Noncompliance shall be issued and copies provided to the property owner and the City within 30 days from the time the system is determined to be noncompliant.
  - (2) Failing ~~individual~~subsurface sewage treatment systems shall be upgraded, replaced, or their use discontinued and the system properly abandoned within one year from the date of the Notice of Noncompliance unless the system is determined to be an imminent threat to public health, safety, or welfare.
  - (3) Any ~~individual~~subsurface sewage treatment system posing an imminent threat shall be upgraded, replaced, repaired, or its use discontinued and the system properly abandoned within 10 months~~30 days~~ after receiving written notice from the Building Official. The Building Official may grant an extension because of weather considerations not to exceed 6 months.
  - (4) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.
- (I) Permits. Permits are required for all ISSTSs in accordance with Minnesota Rules, ~~part 7080.0310~~. Permit fees shall be established by Council Resolution. Such permit shall be valid for a period of 180 days from the date of issuance.
- (1) All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees, or persons exempt from licensing. Permit



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applications shall be submitted by the person doing the individual SSTS construction, accompanied by the required site and design data.

- (2) Permits shall only be issued to the licensed person doing the SSTS construction.
- (3) Permit applications for new and replacement SSTS shall include a management plan for the owner. The management plan shall include a schedule for septic tank maintenance.
- (4) A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.
- (5) Any activity involving an existing system that requires a permit shall require that the entire system be brought into compliance with the requirements of this Section 209.090.
- (J) Inspections. Inspections are required for all ~~ISSTSs~~, and no part of an SSTS shall be covered until and unless it has been inspected and approved by the City. ~~in accordance with Minnesota Rules, part 7080.0315.~~
- (K) Abandonment. An existing ~~ISSTS~~ or any component thereof that will no longer be used must be abandoned in accordance with the adopted standards of this Code, and a record of the abandonment submitted to the City within 90 dayd, as required. ~~Minnesota Rules, part 7080.0176.~~
- (L) Licensing. All design, installation, alteration, repair, maintenance, pumping and inspection activities for ~~ISSTSs~~ must be performed by a business licensed or exempted under Minnesota Rules, ~~part 7080.0700~~ for an appropriately registered qualified City employee.
- (M) Periodically Saturated Soil Disagreements. Disputes involving documented discrepancies on the depth of the periodically saturated soil for SSTS design or compliance purposes shall be resolved according to Minnesota Rules, Chapter 7082.0700, subp. 5.
- (N) Transfer of Properties. Whenever a conveyance of land including a structure that is required to have a SSTS occurs, the following requirements shall be met:
  - (1) A compliance inspection shall have been performed and a Certificate of Compliance shall have been submitted to the City within three (3) years for SSTS older than five (5) years, or within five (5) years if the system is less than five (5) years old, prior to the intended sale or transfer of the property,



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unless evidence is found identifying the SSTS as an Imminent Threat to Public Health and Safety, or Failing to Protect Groundwater.

- (2) The compliance inspection must have performed by a licensed inspection business following the procedures specified in Minnesota Rule Chapter 7082.0700 .
- (3) The seller of the property must disclose in writing information about the status and location of all known SSTS on the property to the buyer on a form acceptable to the City.
- (4) If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a compliant SSTS. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or Federal or State chartered financial institution. The amount escrowed shall be equal to one hundred fifty percent (150%) of a written estimate to design and install a compliant SSTS as provided by a licensed SSTS professional designer/installer, or the amount escrowed shall be equal to one hundred ten percent (110%) of the written contract price for the installation of a compliant SSTS provided by a licensed SSTS installer. After a compliant SSTS has been installed and a Certificate of Compliance issued, the City shall provide the escrow agent a copy of the Certificate of Compliance. The escrow may also be used to connect to a municipal sanitary sewer collection systems permitted by the MPCA if the City determines that an extension of the municipal sanitary sewer collection system to serve the property is feasible.
- (25) A Certificate of Compliance is not required if the sale or transfer involves the following circumstances:
  - (a) The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
  - (b) The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, Subdivision 1.

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(c) The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such a contract.

(d) All dwellings or other buildings are served by a municipal sanitary sewer collection system permitted by the MPCA.

(36) All property conveyances subject to this ordinance occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due to frozen soil conditions, shall require a winter agreement, which includes an application for a SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be non-compliant, an escrow agreement must be established in accordance with paragraph (1) d. above, and a compliant SSTS installed within the timeframe outlined in the Notice of Noncompliance.

(47) The responsibility for completing the compliance inspection under paragraph (N+) (1)a. above, or for upgrading a system found to be non-compliant shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completion of the compliance inspection and for upgrading a system found to be non-compliant.

(58) The issuance of permits, Certificates of Compliance, or Notices of Noncompliance shall not be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such permits or certificates only represent that the system has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

## **PROPOSED MOTION**

**MOVED BY COMMISSION MEMBER** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER** \_\_\_\_\_

To recommend the City Council approve the text amendment to Chapter 209.090, Subsurface Sewage Treatment Systems of the Municipal Code pertaining to subsurface sewage treatment systems (septic systems).

### **VOTE:**

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

The recommendation is based on the following finding:

1. The proposed amendment is consistent with recent changes in State Law and Administrative Rules regarding subsurface sewage treatment systems

Regular Planning Commission Meeting – January 28, 2014

t:\pcf 2014\2514-14-04\textamendsewage treatment\pcmotion



**TO:** PLANNING COMMISSION

**FROM:** Rob Warwick, Senior Planner

**DATE:** January 22, 2014

**SUBJECT:** WIRELESS TELECOMMUNICATIONS FACILITY PERMIT APPLICATION,  
VERIZON WIRELESS LLC, 4615 VICTORIA STREET, FILE NO. 2511-14-01

### **Introduction**

Crown Castle USA, on behalf of Verizon Wireless LLC, has submitted an application for a Wireless Telecommunications Facility (WTF) Permit to permit the collocation of a wireless telecommunications facility at the existing 150-foot monopole located at 4615 Victoria Street. The monopole is owned by Crown Castle, and subject to a ground lease with the City of Shoreview. The permit will allow the installation of antennas on the monopole and installation of a pre-fabricated equipment shelter.

Currently, Sprint, T-Mobile, and Clearwire have wireless facilities at this site. The Verizon antennas will be attached 105 feet above ground level. Concurrent with consideration of the WTF permit, the City Council will consider approval of a ground lease for a 20 by 30 foot area at the north end of the existing fenced area. A 12 by 30 foot pre-fabricated equipment shelter will be located in this leased area, and will house Verizon equipment cabinets and an emergency generator to provide back-up electricity in the event of a power outage. The application was complete on January 4, 2014.

### **Development Code Requirements - Wireless Telecommunications Facility Permit**

The Development Code requirements include review and recommendation of the Planning Commission to the City Council, prior to approval the permit request. The review is based on specified standards and approval is contingent upon execution of a Wireless Telecommunications Tower/Antenna Agreement.

The applicable standards for a WTF are listed below. *Staff comments are italicized.*

- 1) Siting. Antennas located on or attached to existing structures are regulated by the provisions of the zoning district for each parcel. New towers shall only be located on parcels that fall within the Telecommunications Overlay District. New towers are not permitted in public rights-of-way. *The existing 150-foot communications tower is located in the R-1 District and the TOD-2 Overlay District. The tower conforms to the District regulations.*
- 2) Color, Camouflage and Architecture. All WTFs shall be camouflaged and use architectural design, materials, colors, textures, screening, and landscaping to blend in with the surrounding natural setting and built environment. If a WTF is proposed on any part of a building or structure, it must blend with the building or structure's design, architecture and color, including exterior finish. *Staff recommends a condition that the antennas match the exterior finish of the existing tower. The site lease will also include this provision.*

- 3) Landscaping. WTFs shall be landscaped with a buffer of plant materials as determined appropriate for the site by the City. Existing mature trees and other vegetation at the site shall be preserved to the maximum extent possible. *Staff believes that the site topography, and location relative to existing buildings provides sufficient visual screening for the proposed equipment shelter.*
- 4) Signs. The use of any portion of a WTF for signs or advertising other than warning or equipment information signs is prohibited. *Small signs will display required RF emissions warnings on the shelter doors.*
- 5) Lighting. Wireless telecommunication antennas or towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority. When incorporated into the approved design of the WTF, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower. *No new lights are proposed.*
- 6) Setbacks. WTFs shall comply with the principal structure setbacks of the underlying zoning district and the following additional standards:
  - a) WTFs shall not encroach upon any easements unless permission is obtained from the underlying property owner and holder of the easement. *No encroachments are proposed.*
  - b) WTFs shall not be located between a principal structure and a public street. *The equipment shelter will be located within the existing fenced area of the monopole. See the discussion immediately below.*
  - c) The required setbacks may be reduced or the location in relation to a public street modified, at the sole discretion of the City, when the WTF is integrated into an existing or proposed structure such as a building, light or utility pole. *The shelter location uses a location previously occupied by a similar Nextel equipment shelter that was removed about a year ago. The location will provide access to Verizon whenever needed, and will not have any operational impacts to the City. The three existing wireless tenants at this site use outdoor cabinets on a metal platform, as shown on the site plan.*
- 7) Height.
  - a) Antennas located on an existing structure taller than the limit established by the Telecommunication Overlay District may extend up to 5 feet above the height of the structure. *The proposed antenna array will be located at the 105-foot level on the 150- foot communications tower.*
- 8) Safety/Environmental Standards.
  - a) Unauthorized Climbing. WTFs shall be designed to discourage unauthorized climbing. *The existing tower is enclosed with a 6-foot chain link fence.*
  - b) Noise. If the proposed WTF includes a back-up generator or otherwise results in significant increased sound levels, sound buffers may be required including, but not limited to, baffling,

barriers, enclosures, walls, and plantings. *The generator is located within the shelter and muffled to reduce noise when it operates. The generator must operate in compliance with the noise limitations specified in City Code, and will be used only during power outages and for routine testing on a weekly basis. Staff suggests a condition that testing occur between 10 AM and 5 PM, Monday – Friday.*

- c) Radio Frequency (RF) Emissions and Interference. WTFs must comply with Federal Communication Commission standards for RF emissions and interference. *As noted above, Verizon Wireless LLC is licensed and regulated by the FCC. The height of the antennas exceeds the height specified by the FCC for 'Categorical Exclusion', facilities that are unlikely to cause RF emissions exposures in excess of FCC guidelines. Staff recommends a condition of approval requiring Verizon to notify the City as soon as the wireless facility is operational. The City, through its RF consultant, will test RF emissions at the site to verify compliance with FCC RF emissions guidelines.*
- 9) Maintenance. All commercial towers or WTFs shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. *Site maintenance is required as one of the terms of the ground lease.*
- 10) Occupational Safety. WTFs shall comply with applicable State of Minnesota and Federal regulations for occupational exposure to non-ionizing radiation. *Staff recommends a condition requiring display of notices that identify radiation potential for employees working on the site.*
- 11) Collocation Requirements. Except as herein and after provided, WTFs within the City shall comply with the following collocation requirements: *This is a collocation, and so complies with these provisions.*
- 12) Equipment Enclosures. Equipment enclosures accessory to a commercial antenna or WTF shall comply with the following standards:
  - a) Equipment enclosures shall be of the smallest size necessary. *The proposed equipment shelter is standard size for Verizon Wireless LLC equipment.*
  - b) To the extent possible, equipment enclosures shall be located where existing trees, structures, and/or other site features screen them from view. *The equipment structures will be screened from view due to distance, intervening structures, trees and topography.*
  - c) All equipment enclosures shall be screened from view by suitable vegetation, except where non-vegetative screening (e.g., a decorative wall) better reflects and complements the character of the neighborhood. *As noted above, topography, distance, trees and buildings screen the equipment shelter from view from adjacent public streets.*

## Public Comments

Mailed notice was sent to property owners within 350 feet of the subject property. Two telephone call were received in support, with the caller anticipating improvement in wireless service. Ramsey County Parks Department staff commented that construction work should be planned so that it does

not interfere with their operations, storage and parking at the ice arena. Xcel Energy commented that there is an underground gas line and locates need to occur prior to site disturbance.

### **Public Works Review**

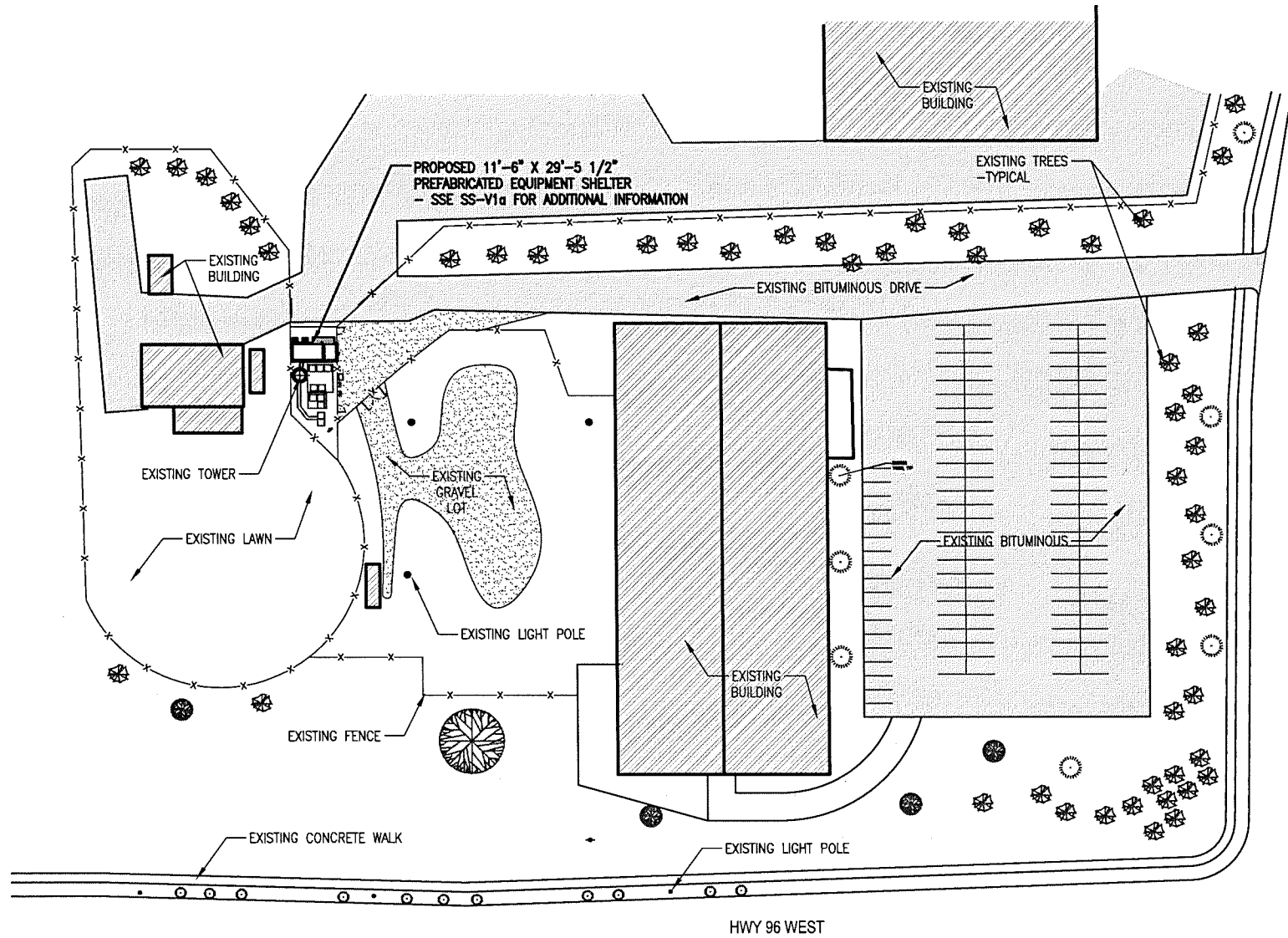
The proposal has been reviewed by the Director of Public Works has recommended the proposal for approval.

The proposed ground lease area will not reduce space used for maintenance activities and will not cause any operational problems.

### **Staff Recommendation**

The application has been reviewed in accordance with the Development Code. Staff finds that the proposal complies with the standards specified for WTF and recommends that the Planning Commission recommend approval to the City Council, subject to the following conditions:

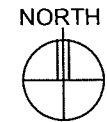
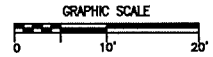
1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is contingent upon the City Council authorizing the lease with Verizon Wireless LLC, including the 20 by 30 foot equipment site and an easements for ingress and egress and utilities.
4. The site is subject to confirmation that RF emissions conform to FCC requirements. Verizon shall notify the City when the system is installed, prior to operation. A City selected RF engineer shall test RF emissions.
5. A permanent emergency power generator may be installed within the equipment shelter. The emergency power generator shall be used for emergency power only, except the times it is being run for routine maintenance, which shall not exceed thirty (30) minutes once a week between the hours of 10:00AM and 5:00PM CST, Monday through Friday, holidays excluded. The operation of the emergency generator shall comply with City regulations pertaining to Noise (Section 209.020 of the Municipal Code).
6. The applicant shall enter into a Wireless Telecommunications Tower/Antenna Agreement with the City, as required.



1

**SITE PLAN**

SCALE: 1" = 50'

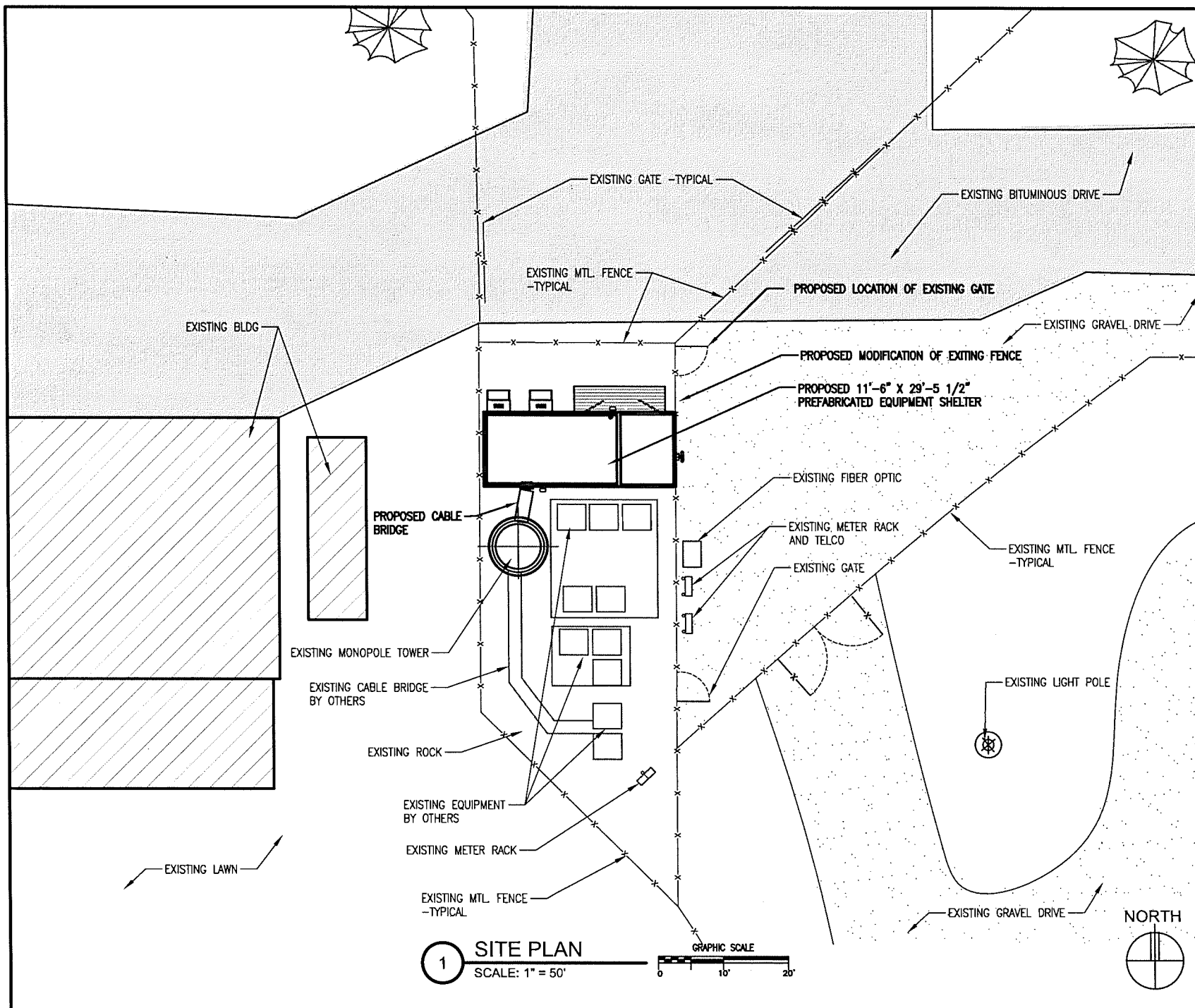


PROJECT: 20130877264  
**MINC**  
**SHOREVIEW VILLAGE**  
 N. VICTORIA STREET  
 SHOREVIEW, MN 55126

**VERIZON**  
**WIRELESS**  
 10801 BUSH LAKE ROAD  
 BLOOMINGTON, MN 55438  
 (612) 720-0030

**DESIGN 1**  
 9933 VALLEY VIEW ROAD  
 BLOOMINGTON, MN 55438  
 (952) 903-9299 FAX 903-7292  
 ROBERT J. DAVIS, AIA  
 ARCHITECT

DRAWN BY: KJM  
 DATE: 09.05.13  
**SS-V.1**



**DESIGN 1**  
 9975 VALLEY VIEW ROAD  
 SUITE 100  
 BLOOMINGTON, MN 55425  
 (952) 903-9295 FAX (952) 903-9292  
 ROBERT J. DAVIS, AIA  
 ARCHITECT

**VERIZON  
WIRELESS**  
 10801 BUSH LAKE ROAD  
 BLOOMINGTON, MN 55438  
 (612) 720-0030

PROJECT: 20130877264  
**MINC**  
**SHOREVIEW VILLAGE**  
 N. VICTORIA STREET  
 SHOREVIEW, MN 55126

DRAWN BY: KJM  
 DATE: 09.05.13

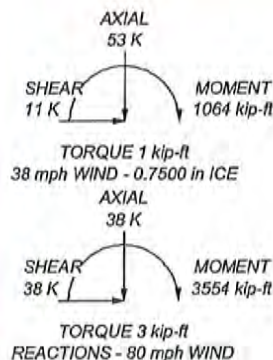
SS-V.1a



Section	1	2	3	4	
Length (ft)	9'3"	54'5"-1'032"	54'2"-1'032"	53'6"	
Number of Sides	12	12	12	12	
Thickness (in)	0.2188	0.3750	0.4063	0.4688	
Socket Length (ft)	4'3"	5'5"-1'032"	6'8"-1'032"	44.9613	
Top Dia (in)	24.6050	25.0351	35.1130	57.0000	
Bot Dia (in)	25.2100	37.0500	47.2700		
Grade		A572-65			
Weight (K)	0.6	5.9	9.8	13.9	31.1



**Proposed Verizon Antennas, 105 feet AGL**



## DESIGNED APPURTENANCE LOADING

TYPE	ELEVATION	TYPE	ELEVATION
8' Lighting Rod	155	Vx DAP I/V RF Module	111
P65-16-XLPP-RR w/ Mount Pipe	154	P65-18-XXW2-M w/ Mount Pipe	111
P90-15-XLPP-RR w/ Mount Pipe	154	Vx DAP I/V RF Module	111
RRH-C2A w/EXT FILTER	154	P65-18-XXW2-M w/ Mount Pipe	111
RRH-C2A w/EXT FILTER	154	SO 101-3	111
RRH-C2A w/EXT FILTER	154	5' x 2" Pipe Mount	111
RRH-P4	154	5' x 2" Pipe Mount	111
RRH-P4	154	5' x 2" Pipe Mount	111
RRH-P4	154	Vx DAP I/V RF Module	111
TA 602-3	154	VHLP2.5-18	111
(3) 2.375"x6" Pipe Mount	154	VHLP1-23-DW1	111
(3) 2.375"x6" Pipe Mount	154	E15S09P49	105
(3) 2.375"x6" Pipe Mount	154	(2) LNX-6515DS-VTM w/ Mount Pipe	105
P90-15-XLPP-RR w/ Mount Pipe	154	(2) WBX065X17M050 w/ Mount Pipe	105
ETW200VS12UB	148	(2) DD1900 FULL BAND MASTHEAD	105
(2) ECC1920-VPUB	148	E15S09P49	105
ASU9338TYP01	148	(2) LNX-6515DS-VTM w/ Mount Pipe	105
(2) FXFB	148	(2) WBX065X17M050 w/ Mount Pipe	105
(2) TMBXX-6517-A2M w/ Mount Pipe	148	(2) DD1900 FULL BAND MASTHEAD	105
ETW200VS12UB	148	E15S09P49	105
(2) ECC1920-VPUB	148	TA 602-3	105
FRIG	148	(2) LNX-6515DS-VTM w/ Mount Pipe	105
(2) TMBXX-6517-A2M w/ Mount Pipe	148	(2) WBX065X17M050 w/ Mount Pipe	105
ETW200VS12UB	148	(2) DD1900 FULL BAND MASTHEAD	105
(2) ECC1920-VPUB	148	TME-RVZDC-3315-PF-48 w/ Mount Pipe	103
(2) FRIG	148	PM 601-3	103
TA 602-3	148	PM 601-1	103
(2) 2.375"x6" Pipe Mount	148	TME-RRUS 12 W/O SOLAR SHIELD	103
(2) 2.375"x6" Pipe Mount	148	TME-RRUS 12 W/O SOLAR SHIELD	103
(2) TMBXX-6517-A2M w/ Mount Pipe	148	TME-RRUS 12 W/O SOLAR SHIELD	103
P65-18-XXW2-M w/ Mount Pipe	111		

## MATERIAL STRENGTH

GRADE	Fy	Fu	GRADE	Fy	Fu
A572-65	85 ksi	80 ksi			

## TOWER DESIGN NOTES

1. Tower is located in Ramsey County, Minnesota.
2. Tower designed for a 80 mph basic wind in accordance with the TIA/EIA-222-F Standard.
3. Tower is also designed for a 38 mph basic wind with 0.75 in ice. Ice is considered to increase in thickness with height.
4. Deflections are based upon a 50 mph wind.
5. TOWER RATING: 70.6%

<b>TECTONIC</b> Practical Solutions. Exceptional Service		<b>Tectonic</b> 1279 Route 300 Newburgh, NY 12550 Phone: (845) 567-6658 FAX: (845) 567-8703		Job: <b>BU# 878459</b>	
Project: <b>Crown Castle</b>		Drawn by: <b>Kenneth Widman</b>		App'd:	
Code: <b>TIA/EIA-222-F</b>		Date: <b>12/27/13</b>		Scale: <b>NTS</b>	
Path:				Dwg No. <b>E-1</b>	





City Council:  
Sandy Martin, Mayor  
Emy Johnson  
Terry Quigley  
Ady Wickstrom  
Ben Withhart



City of Shoreview  
4600 Victoria Street North  
Shoreview, MN 55126  
651-490-4600 phone  
651-490-4699 fax  
www.shoreviewmn.gov

January 14, 2014

REQUEST FOR COMMENT

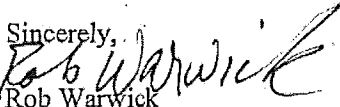
Dear Shoreview Property Owner:

Please be advised that on **Tuesday, January 28, 2014 at 7:00 p.m.**, the Shoreview Planning Commission will review an application submitted by Crown Castle USA on behalf of Verizon Wireless LLC for a Wireless Telecommunications Facilities (WTF) permit proposed to be located on the **existing 150-foot communications monopole located at 4615 Victoria Street North**. Verizon provides wireless telecommunications services throughout the US, including the Twin Cities Metropolitan area.

Verizon proposes placing antennas on the existing tower. A 12 by 28 foot prefabricated equipment shelter will be used to house the equipment cabinets and an emergency power generator. Please see the attached location map and proposed plans.

You are encouraged to fill out the bottom portion of this form and return it if you have any comments or concerns. Your comments should be submitted by **Thursday, January 23<sup>rd</sup>** to be included in the Planning Commission agenda packet. Comments received after that date but before the meeting date will be distributed at the Planning Commission meeting. You are also welcome to attend the meeting. The meeting is held at City Hall, 4600 N. Victoria Street in the City Council Chambers.

If you would like more information or have any questions, please call me at 651-490-4681 between 8:00 a.m. and 4:30 p.m., Monday through Friday. You may leave a voice mail message at any time. I can also be reached via e-mail at [rwarwick@shoreviewmn.gov](mailto:rwarwick@shoreviewmn.gov).

Sincerely,  
  
Rob Warwick  
Senior Planner

Comments:

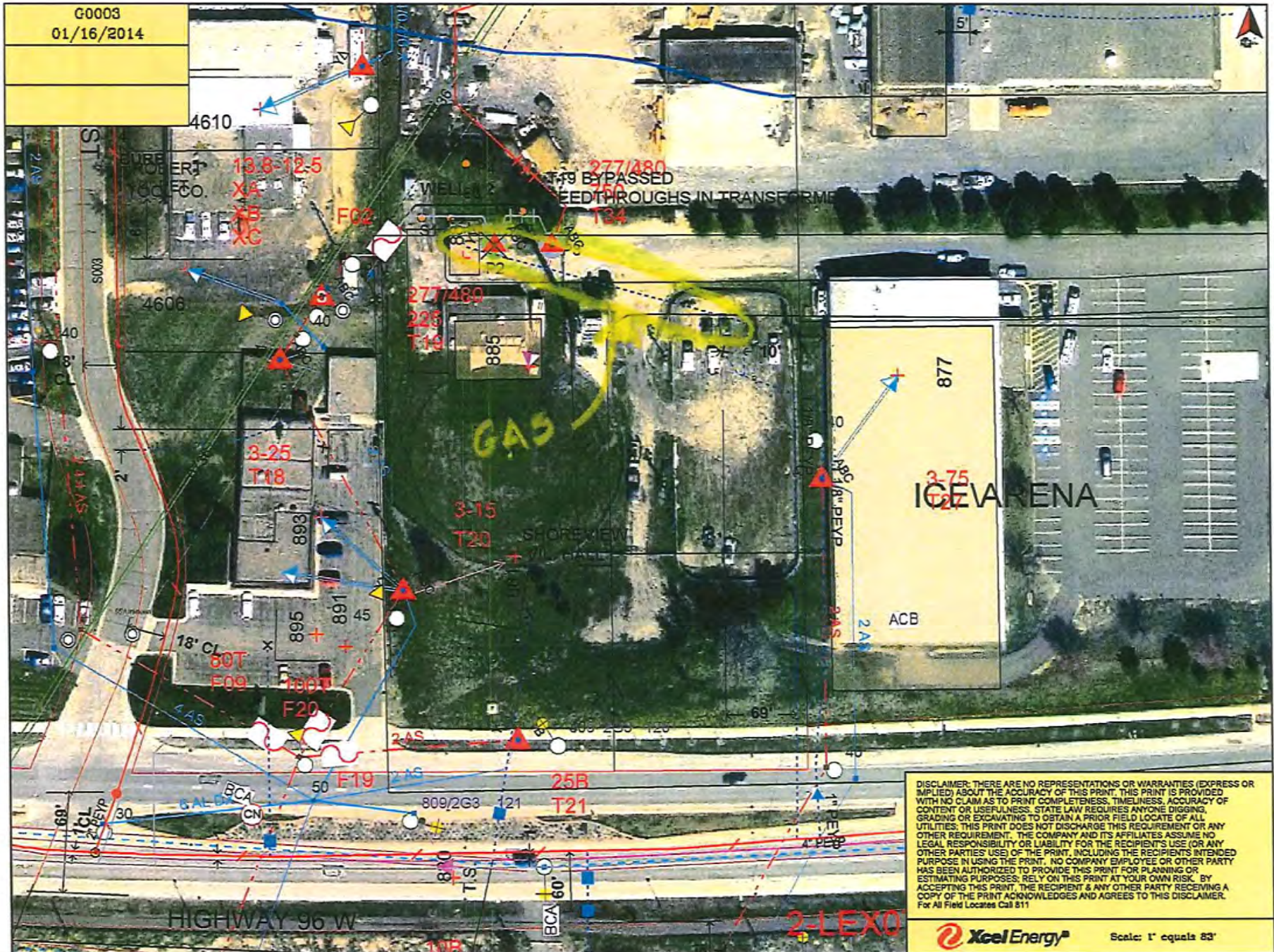
PLEASE HAVE GAS LINE LOCATED PRIOR  
TO INSTALLATION OF EQUIP. SHELTER.  
NSP BUILDERS CALL LINE, 1-800-628-2121 OR  
GOPHER STATE ONE CALL.

Name: JEAN M. BORGEN

Address: XCEL / NSP GAS & ELEC



G0003
01/16/2014



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For All Field Locates Call 811

Scale: 1" equals 83'





Robert Warwick &lt;rwarwick@shoreviewmn.gov&gt;

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## At the monopoly behind the Ice Arena

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**Blumer, Brett** <brett.blumer@co.ramsey.mn.us>

Tue, Jan 14, 2014 at 2:32 PM

To: Robert Warwick &lt;rwarwick@shoreviewmn.gov&gt;

Cc: "Yungers, Jody" &lt;jody.yungers@co.ramsey.mn.us&gt;, "Yonke, Scott" &lt;scott.yonke@co.ramsey.mn.us&gt;, "McCabe, Mark" &lt;Mark.McCabe@co.ramsey.mn.us&gt;

Hi Rob,

Upon review it appears that there not be any issues with the construction of the new tower. Ramsey County would like to comment regarding access, and request that access by the County to that general area (the outdoor rink) of the complex will not be denied during construction or after it is complete.

When will this construction be taking place?

Thank you,

**B. Gus Blumer, ASLA, PLA**

*Landscape Architect*

Ramsey County Parks and Recreation Department

*2015 N. Van Dyke Street*

*Maplewood, MN 55109*

*651.748.2500 Ext. 334*

*brett.blumer@co.ramsey.mn.us*

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**From:** Robert Warwick [mailto:rwarwick@shoreviewmn.gov]

**Sent:** Monday, January 13, 2014 4:14 PM

**To:** Blumer, Brett

**Subject:** At the monopoly behind the Ice Arena

## **PROPOSED MOTION**

**MOVED BY COMMISSIONMEMBER** \_\_\_\_\_

**SECONDED BY COMMISSIONMEMBER** \_\_\_\_\_

To recommend to the City Council approval of the Wireless Telecommunications Facility Permit application submitted by Crown Castle USA on behalf of Verizon Wireless LLC to collocate antenna on the existing monopole located at 4615 Victoria Street, and to install an equipment shelter within a 20 by 30 leased area, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is contingent upon the City Council authorizing the ground lease with Verizon Wireless LLC, including the 20 by 30 foot equipment site and an easement for ingress and egress.
4. This approval is contingent upon Crown Castle, the monopole owner, authorizing and executing a site lease agreement for vertical space on the monopole with Verizon Wireless LLC.
5. The site is subject to confirmation that RF emissions conform to FCC requirements. Verizon shall notify the City when the system is installed, prior to operation. A City selected RF engineer shall be provided access to the site to test RF emissions.
6. A permanent emergency power generator may be installed within the equipment shelter. The emergency power generator shall be used for emergency power only, except the times it is being run for routine maintenance, which shall not exceed thirty (30) minutes once a week between the hours of 10:00AM and 5:00PM CST, Monday through Friday, holidays excluded. The operation of the emergency generator shall comply with City regulations pertaining to Noise (Section 209.020 of the Municipal Code).
7. The applicant shall enter into a Wireless Telecommunications Tower/Antenna Agreement with the City, as required.



Approval is based on the following findings of fact:

1. The site is located in the TOD-2 where wireless telecommunications facilities collocated on an existing tower is a permitted use.
2. The proposal complies with the adopted City standards for Wireless Telecommunications Facilities, as specified in Section 207.040 of the Municipal Code.

**VOTE:**      **AYE** \_\_\_\_\_  
                 **NAY** \_\_\_\_\_

Regular Planning Commission Meeting, January 28, 2014